

**HOPE DEFERRED: SECURING ENFORCEMENT OF
THE GOLDMAN ACT TO RETURN ABDUCTED
AMERICAN CHILDREN**

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND
INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
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HOPE DEFERRED: SECURING ENFORCEMENT OF THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN

THURSDAY, JULY 14, 2016

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:15 p.m., in room 2255 Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order, and welcome.

I want to thank all of you, especially all the left-behind parents I see in the audience for joining us this afternoon to discuss what the U.S. Department of State's second annual report under the Sean and David Goldman International Child Abduction Prevention and Return Act tells us about the Department's implementation of the Goldman Act thus far.

It is worth noting that the numbers of new abductions from the United States in 2015 remain below the pre-Goldman Act mark probably due to increased abduction prevention. So I want to commend the Department for a myriad of efforts it has undertaken on the prevention side.

According to the report, 600 more children were abducted to other countries last year, quickly replacing the 229 children abducted in various years, not just last year but obviously previous years as well, who were returned.

Overall, approximately 1,000 remain in a foreign country separated from their American parent. As many of you have experienced, international parental child abduction rips children from their homes and whisks them away to a foreign land, alienating them from the love and care of the parent and family left behind.

Child abduction is child abuse and continues to plague families across the United States and across the world. For decades the State Department has used quiet diplomacy to attempt to bring these children home.

In a hearing I held on this issue back in 2009 former Assistant Secretary of State Bernie Aronson called quiet diplomacy a sophisticated form of begging.

Thousands of American families who suffer unspeakable agony from years of unresolved abductions confirm that quiet diplomacy

is inadequate. Of course, conversations and contact are important but they need to be backed up with concrete actions as well.

In 2014, Congress unanimously passed the Goldman Act to give teeth to requests for return as well as for access. The actions against noncooperating governments required by the law escalate in severity and range from official protests through diplomatic channels to the suspension of development, security, or other foreign assistance.

Extradition of abducting parents also may be the case. The Goldman Act is a law calculated to get results as we did in the return of Sean Goldman from Brazil in 2009 and I stay in very close contact with them and both father and son are doing extremely well.

This year's report as required by the Goldman Act singles out 19 countries in total including India, Brazil, Japan, and Tunisia for failures to work with the United States in the return of abducted American children.

For instance, the report notes 83 abductions to India still open at the end of the year with 25 of those being new in 2015. Only one was closed with a court-ordered return to the U.S.

These numbers will continue to climb each year until India creates a mechanism for resolution. Right now, India is a magnet for abductions because the taking parents are almost guaranteed to get away with their crime.

Brazil had 17 abduction cases open at the end of 2015 with a 27-percent resolution rate. Brazil has been a Hague Convention partner with the United States in 2003 and has yet consistently failed to comply with the Hague Convention.

Devon Davenport, who has testified before this subcommittee, has won every one of his 24 appeals in Brazil's courts over the last 7 years and yet he still cannot get his daughter, Nadia, home.

If there ever was a textbook case for sanctions, Brazil is it. They have met the legal threshold ten times over. The report lists Japan as a "country that has failed to comply with one or more of its Hague Convention obligations" specifically "in the area of enforcement of return orders."

Multiple parents have won victories in court only to discover Japan has what the report calls "systemic flaws" with enforcement. What remains inexplicable is why Japan was kept off the list of noncompliant countries for a second year, thus shielded from the imposition of sanctions prescribed by the Goldman Act, even though the Department condemns them for systemic flaws in their ability to enforce court orders.

Failure to enforce return orders is a sufficient trigger for landing on the noncompliant list and I say that again. In the plain meaning and text of the Goldman Act that is enough to trigger being listed as noncompliant.

One parent had to go outside of the Convention framework to achieve enforcement in an extraordinary case resolved after the reporting period.

The report should also should have counted against Japan the 40—count them—40 pre-Convention abduction cases it mentions as still pending, most of them for more than 5 years.

Countries should be listed as worst offenders if they have high numbers of cases—30 percent or more—that have been pending for

more than a year. Again, in Japan—most of these are more than 5 years.

Countries may also be listed if their law enforcement, judiciary, or central authority for abductions regularly fails in their duties under the Hague Convention or other controlling agreement or if the country simply fails to work with the United States to resolve the cases.

Accurate reporting, including inclusion of the worst offenders list, is critical to family court judges across the country and parents considering their child's travel to a foreign country where abduction or access problems are at risk.

However, reporting is just step one. Once these countries are properly classified, the Secretary of State then determines which of the aforementioned actions the United States will apply to the country in order to encourage the timely resolution of cases.

Such actions should bring an end to the nightmare of the Elias family whose children, Jade and Michael, who live in New Jersey but they now have been abducted to Japan, and have been missing in Japan for 8 years.

Michael, their father, has testified before our subcommittee twice in the past, an Iraqi war veteran, and it is heartbreaking like it is for the other families that are here to know that their children languish in a setting where parental alienation causes severe and significant deleterious effects to their mental health and that has been well proven. And the longer the years the worse it, arguably, becomes for those children.

We have a panel of family members, left-behind parents who will be testifying after Ms. Christensen. But I would like to thank them for being here and then I'd like to now introduce Ms. Karen Christensen, who has served as Deputy Assistant Secretary of State for Overseas Citizens Services since August 2014.

Most recently, Ms. Christensen was the Minister Consular for Consular Affairs at the U.S. Embassy in Berlin where she coordinated consular operations at several posts in Germany Prior to that she was Consul General in Manila.

She also served in Washington within the Bureau of Consular Affairs in the Visa Office in the Office of Executive Director. Overseas, she has served as a consular officer in London, Bucharest, Warsaw, and Seoul.

Other Washington tours include serving as an instructor in the Consular Training Division and a Career Development Officer in the Bureau of Human Resources.

STATEMENT OF MS. KAREN CHRISTENSEN, DEPUTY ASSISTANT SECRETARY, BUREAU OF CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE

Ms. CHRISTENSEN. Chairman Smith, thank you for this opportunity to discuss international parental child abduction.

This issue is one of the highest priorities of the Department of State. My testimony today will summarize my written statement, which I request be entered into the record.

Mr. SMITH. Without objection, so ordered.

Ms. CHRISTENSEN. Mr. Chairman, I would like to thank you for your leadership on this issue. We continue to use our diplomatic

engagement with countries to prevent or resolve abduction cases using the tools you gave us in the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014.

In preparing the recently released 2016 report, we used the feedback we received from you as well as from parents, judges, and our partners at the National Center for Missing and Exploited Children to make the report a more helpful resource for parents, judges, and family law attorneys.

The 2016 report includes additional narrative statements and country-specific information that will make it a powerful tool for resolving cases in the year to come.

Mr. Chairman, we are getting results. In 2015, 299 abducted children were returned to the United States. The majority, 213, returned from countries we are partnered with under the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

More than that, thanks to new measures in the law we have a liaison agreement with the Department of Homeland Security and a full time Department of State employee now serves at the Customs and Border Protection National Targeting Center. This allows for seamless communications and since the law took effect we've prevented over 140 potential abductions.

We have prepared congressional reports on our international parental child abduction work since at least 2007. Our 2015 report was the first issued under the new requirements of the act.

As the parents here today with us know, each abduction case is unique. To reflect this fact and the complexities involved in resolving these cases, in preparing the 2016 report we added narratives that give context to the statistics.

We regret that this report was late. This year we completely reworked the format of the report to make it a more useful resource for families and we are taking steps to ensure that this delay does not happen again next year.

Building on last year's work we believe that the 2016 report is a significantly more helpful tool for all stakeholders. We are using the report to focus our efforts to collaborate with your constituents, advocacy groups, our interagency partners, foreign government counterparts and with you, Members of Congress, to return children home. We are getting results.

In May, Japan successfully enforced its first court order under the Convention and four children returned with their mother to the United States. I was in Japan for bilateral meetings on abductions when the Japanese court enforced the return order.

So I was able to witness first-hand the strong cooperation between our two countries that helped resolve this case and I am pleased to inform the subcommittee that on July 8th a second Convention case was resolved successfully following the enforcement of a Convention return order and a father was reunited with his son.

Both have returned to the United States. We are optimistic that these two groundbreaking cases are a turning point in Japan's ability to comply with the Convention and the beginning of a pattern of success for the Convention in Japan.

The report highlights our deepening engagement with countries that have become party to the Convention. As a result of those ef-

forts in early 2016 we welcomed Thailand as our 74th partner under the Convention and we look forward to potential partnership review of the Philippines which became party to the Convention last month.

Yet, we know that despite these positive diplomatic results some families continue to suffer as their children remain across an international border and we have much more work to do.

In the 2016 report, we cited 13 Convention partner countries that either demonstrated a pattern of noncompliance or failed to comply with one or more of their obligations under the Convention in 2015 as defined by the act and we cited eight nonconvention countries that demonstrated a pattern of noncompliance in 2015 as defined by the act.

Mr. Chairman, distinguished members of the subcommittee, we constantly strive to increase our effectiveness and always look for ways to collaborate with our partners including you, Members of Congress, who have committed so much time and energy to addressing this very important and urgent issue.

We will continue to get results. Let me emphasize my personal commitment and the Department's dedication to preventing international parental child abductions and safeguarding and returning abducted children to their places of habitual residence.

I appreciate your feedback and suggestions and I look forward to your questions. Thank you.

[The prepared statement of Ms. Christensen follows:]



DEPARTMENT OF STATE
STATEMENT
OF
KAREN L. CHRISTENSEN
DEPUTY ASSISTANT SECRETARY FOR OVERSEAS CITIZENS SERVICES
BUREAU OF CONSULAR AFFAIRS
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL
HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

HEARING
ON
JULY 14, 2016

Chairman Smith, Ranking Member Bass, and distinguished Members of the Subcommittee – Thank you for the opportunity to address you today.

We appreciate your continued interest in the work we do to prevent and resolve international parental child abductions and your efforts to advocate on behalf of the parents affected by the heartbreak of abductions. We share with you the goals of preventing international parental child abductions, of the expeditious return of children to their countries of habitual residence, and of the strengthening and expansion of our partnerships under the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Convention). We use the tools you gave us in the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (the Act) to continue to leverage our diplomatic engagement with countries and we are getting results.

Every day, my colleagues in the Bureau of Consular Affairs advance the foreign policy goals of the Department by assisting thousands of U.S. citizens affected by political crises, natural disasters, abuse, mental illness, and crime in all parts of the world. One of our priorities is international parental child abduction. In 2015, more than 600 children were reportedly abducted by a parent from the United States to another country. The State Department's Bureau of Consular Affairs leads the U.S. government's work in attempting to prevent and aid in the resolution of international abductions.

In these heartbreaking cases and in others, we work consistently and tirelessly attempting to perform welfare and whereabouts checks when we have concerns for the well-being of U.S. citizens, issuing passports to U.S. citizens, including to children returning to the United States, and issuing visas, including to parents traveling to the United States to attend custody hearings in their child's habitual residence, where appropriate.

As we undertake long-term efforts to elicit cooperation from foreign governments on abduction cases, we actively encourage countries to become party to the Convention, which, in addition to being one of the best options for parents seeking the return of their children, is also the best means of ensuring other countries adhere to the same standards we do when addressing abduction and access cases.

We work with parents, with counterparts in foreign governments, and with other U.S. government agencies to help resolve individual international parental child abduction cases. Each country, like our own, has its own judicial system, law enforcement entities, and cultural and family traditions. We tailor our strategy to deploy the most effective approach toward resolving each abduction case, including securing a child's return to the place of habitual residence or parental access to children.

Much of the day-to-day diplomatic engagement on abduction matters is handled by the Country Officers in the Office of Children's Issues. Our team of experts, based in Washington, is continuously in direct touch with counterparts in foreign government central authorities. On a regular basis, they also work with foreign governments through foreign embassies in Washington and our U.S. diplomatic missions overseas.

Senior U.S. officials often engage with their foreign counterparts to press for a prompt resolution to abduction cases. In the 2016 Annual Report on International Parental Child

Abduction, Secretary Kerry emphasizes the U.S. commitment to combating international parental child abduction.

In 2015, Assistant Secretary for Consular Affairs Ambassador Michele Thoren Bond pressed foreign governments on abduction issues in Washington and overseas. She made public statements, delivered protests to foreign ambassadors, and held meetings in foreign capitals and in Washington to voice U.S. concerns over international parental child abduction.

Ambassador Susan Jacobs, the Secretary's Special Advisor for Children's Issues, visited more than 15 countries and attended multilateral conferences to discuss abduction issues. She promoted accession to or ratification of the Convention, and other arrangements to promote the return of and access to abducted children, such as Memoranda of Understanding, including one between the United States and Egypt. Ambassador Jacobs also encouraged countries for which the Convention is already in force with respect to the United States, also known as "partner" countries, to improve their treaty implementation.

And our embassies and consulates around the world play an important role in the Department's campaign to address international parental child abduction. U.S. ambassadors raise concerns to host governments, and U.S. consular and political officers regularly work on abduction matters, through liaising with local officials and by providing consular services, such as checking on the welfare of children who were abducted overseas.

The Annual Report on International Parental Child Abduction 2016

We have prepared Congressional reports on our international parental child abduction work since at least 2007. Our 2015 report was the first report issued under the new requirements of the Act. That report was a solid response to the call for data and information about the Department's work on international parental child abduction. In preparing this year's report, we integrated feedback from Congress, parents, judges, and such partners as the National Center for Missing and Exploited Children, and incorporated more country specific narrative and fewer tables of data. Building on last year's work since the Act became law, we believe that the 2016 Report is significantly more responsive and a helpful tool for all stakeholders.

The 2016 Annual Report reflects the number of cases reported to our office and how the Office of Children's Issues and our counterparts in foreign countries work together to resolve them. This information is challenging to compile and to present but can serve as a valuable resource for those affected by international parental child abduction.

However, each abduction case is unique. To reflect the complexities, this year we have included narratives in our report that offer context to the statistics on international parental child abduction throughout the world. We also included supplemental data in order to give additional context to the statistics that the Act requires.

For example, the report provides statistical information about each country for which there were five or more pending abduction cases reported during 2015. The report also provides information about our bilateral relationship with that country on abduction matters,

recommendations for improved work to resolve abductions, and comments on the country's compliance with the Convention if applicable.

In the data pages we have added statistics beyond those required by the Act when we believed including them may be useful for the reader. For example, we provided the number of abductions and access requests reported to the Department, reflecting the overall caseload for that country, regardless of whether a particular case meets the definition of abduction under the Convention or under the Act.

Throughout the report, we have discussed topics that relate to our work on international parental child abduction cases. For example, we explained the International Visitor Leadership Program, which gives decision-makers and practitioners in other countries a first-hand view of how we work to resolve international parental child abduction cases, and we included information on our training and outreach to U.S. judges and U.S. Armed Forces legal assistance personnel, military chaplains, and military family support.

In 2015, we continued our diplomatic engagement with countries that have become party to the Convention but for whom the Convention is not yet in force with respect to the United States. As a result of those efforts, in early 2016, we welcomed Thailand as our 74th partner under the Convention, and we began reviewing the Philippines for potential partnership after the country acceded to the Convention.

In the report, we noted that, in 2015, 299 abducted children whose habitual residence was the United States were returned to the United States. The majority, 213 children, returned from Convention countries, while 86 were returned from countries adhering to no protocols with respect to international parental child abduction, as defined in the Act.

Last year, we worked on 136 abduction cases that were resolved without the abducted children being returned to the United States. These included cases that were sent to the Foreign Central Authority and were later closed for the following reasons: the judicial or administrative authority complied with the Convention; the parents reached a voluntary arrangement; the left-behind parent withdrew the application for return; the left-behind parent could not be located for greater than one year; or the left-behind parent or child passed away.

Of the 136 cases, 134 involved Convention countries, and two involved non-Convention countries.

Cited Countries

Despite this good news, there are families that continue to suffer as their children remain across an international border. In the 2016 report, we cited 13 Convention partner countries that either demonstrated a pattern of noncompliance, or failed to comply with one or more of their obligations under the Convention in 2015, as defined by the Act: Argentina, Austria, The Bahamas, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Japan, Peru, and Romania; and eight non-Convention countries that demonstrated a pattern of noncompliance in 2015 as defined by the Act: Egypt, India, Jordan, Lebanon, Nicaragua, Oman, Pakistan, and Tunisia.

Of particular interest to this subcommittee will be the citations for Brazil, India, and Japan based on activity in 2015. Brazil demonstrated a pattern of noncompliance because 30 percent or more of the total abduction cases were unresolved abduction cases as defined by the Act. In addition, the Brazilian judicial authority failed to regularly implement and comply with the provisions of the Convention. India demonstrated a pattern of noncompliance by persistently failing to work with the United States to resolve abduction cases. Japan failed to comply with its obligations under the Convention in the area of enforcement of return orders. In the case of Japan, we are pleased to report that in 2016 there have been two successfully enforced returns under the Convention. In the first case, four U.S. citizen children were returned to their mother. In a second case, a U.S. citizen child was returned to his father. We are optimistic that the successful resolution of these cases signals a turning point in Japan's ability to comply with its obligations under the Convention.

We have provided a narrative analysis of the state of Convention compliance in each country we cite, in addition to the information provided in the country data pages for countries with five or more cases. It is our hope that the fuller picture of international parental child abduction in individual countries in the 2016 Annual Report will serve as a guide for traveling parents, judges, and family law attorneys. But more than that, we believe, as you do, that citing a country in the report can be a powerful tool for resolving cases in the future.

Our Engagement with Partners

Strategically, a key focus for us is to prevent abductions. From a child's first U.S. passport application, we work to protect children from international parental child abduction. U.S. law and regulation generally requires the consent of both parents for passport issuance to children under the age of 16. This minimizes the possibility that a passport could be issued to a child without the consent of both parents. In addition, enrolling a child in the Department's Children's Passport Issuance Alert Program (CPIAP) provides notification to the enrolling parent to ensure they are aware of the passport application. When a child is enrolled in CPIAP, the Prevention Branch of the Office of Children's Issues reviews the passport application and all supporting documents prior to any passport issuance. Prevention officers reach out to the requesting parent to notify them of the application and confirm their consent to the passport application. The Department will only issue a passport to a minor if we have the consent of both parents or the documents submitted with the passport application demonstrate the legal authority to issue without such consent.

In 2015 we enrolled 4,064 children in CPIAP and helped enroll 127 children in the Department of Homeland Security's program aimed at preventing international parental child abduction. We work with U.S. and foreign law enforcement agencies, airlines, and others to prevent children from being unlawfully removed from the United States. Our prevention officers are available 24/7 and through our broad public affairs campaign we encourage parents to reach out to us for information that can help avoid abductions before they happen. We fielded 1,560 inquiries in 2015 from parents, attorneys, support organizations, and foreign governments seeking prevention information.

The Department of State works closely with U.S. Customs and Border Protection (CBP) to help ensure that parents who have court orders that prohibit the international travel of a child can request assistance from CBP and U.S. law enforcement to prevent outbound abduction attempts. Key to the program's success, and a byproduct of the Act's mandated interagency working group, has been streamlined communications and information sharing among agencies on child abduction prevention initiatives. These new measures were instrumental in preventing more than 140 potential abductions since the law took effect.

In April and October of 2015, we hosted Prevention of International Parental Child Abduction Interagency Working Group meetings to discuss strategies to enhance international parental child abduction prevention measures. Special Advisor for Children's Issues Susan Jacobs chaired both meetings; officials from the U.S. Central Authority, the Department of Homeland Security, the Department of Justice, the Federal Bureau of Investigation, and the Department of Defense participated. Participants discussed ways to enhance current interagency abduction prevention strategies. At the October meeting, the U.S. Central Authority provided English- and Spanish-language Preventing International Parental Child Abduction brochures to all participants to distribute within their agencies. The working group will continue to meet regularly to streamline and improve interagency cooperation when working to prevent international parental child abduction cases originating from the United States.

Conclusion

Mr. Chairman, Ranking Member Bass, distinguished Members of the subcommittee, the Act has reinforced significantly our work to address the complex problem of international parental child abduction.

In our efforts to return abducted children to their places of habitual residence we are using all effective means available to us under the law. This is our mission. The Department of State weaves our concerns about international parental child abduction into our diplomatic discourse with nations around the globe. We want to set the Convention's framework as a standard around the world for addressing and resolving abduction cases. Where that may not be an option, we can work toward bilateral and other arrangements to resolve abductions that take children from their homes and families in the United States. We can advance this through persistent diplomatic engagement, an approach that has produced results with many countries around the world. The Act specifies actions that include tactics and strategies that already figure into how the Department wields diplomacy, persuasion, and negotiation to advance U.S. interests throughout the world.

We take actions based on the Annual Report and on the Act, and take action any time we consider it to be timely and effective. We frequently deliver demarches and discuss cases with senior government officials in countries that are not complying. These are very frank conversations, and we are adamant that each country is aware of the importance of this issue. The Act directs us to raise with the governments of the countries we cite in our report the reasons why we think they are not living up to their obligations with regard to international parental child abduction. We will report on those approaches and our continuing engagement with foreign countries in the follow up Action Report.

We constantly strive to increase our effectiveness and our compliance and always look for ways to collaborate with our partners, including you, members of Congress who've committed so much time and energy to addressing this very important and urgent issue.

Thank you.

Mr. SMITH. Ms. Christensen, thank you very much for your testimony and I do agree that this year's report is certainly more readable and I thank you for that.

I do have a number of questions and let me first—I deeply appreciate Secretary Kerry's letter of transmittal in the report where he says there can be no safe haven for abductors and I believe in his whole heart and soul he believes that. He, when he was a U.S. Senator, had family members of a constituent abducted in one case to Egypt.

At one point we had the father testify and it was very compelling testimony and Egypt, of course, is on the list of non-Hague patterns of noncooperation and as it should be. But he, in the letter, he also makes the point that there has been an effort to stop abductions as they are happening.

Can you elaborate? Have there been actual instances that you can cite, maybe a number and maybe without naming names but a situation where such an abduction was stopped in progress?

Ms. CHRISTENSEN. Sure. We have had actually a case—one of the things in the world of prevention, first of all, as mentioned we have an officer from our office who is permanently seconded now to the National Targeting Center. That allows for the communication to happen immediately when we hear of an abduction in process and I can tell you, because I read the duty officer reports, that my staff is involved in it every night. That means 24/7 somebody is on duty and I see every day there is at least one phone call that involved a parental child abduction.

Not necessarily an abduction in process—sometimes they're calling to say I think this might happen, how do I protect myself, how do I get this stopped, how do I enroll my child in the program that prevents them from getting a passport without my permission. We're answering those calls 24/7.

But because we have an officer now at the National Targeting Center and because in the Sean and David Goldman Act you gave us the tools—you gave CBP—Customs and Border Protection—some additional tools to be able to actually act on those abductions in progress we have been able to stop quite a number of those.

I can think of one example, and this was quite groundbreaking, where a plane actually turned around and the plane had departed already—turned around and came back with the child who was in the process of being—

Mr. SMITH. Where was that plane heading to?

Ms. CHRISTENSEN. It was headed to China.

Mr. SMITH. So the child was reunited?

Ms. CHRISTENSEN. Yes, so the child was reunited. Another thing we're doing is working very closely with the airlines and the airlines are ramping up their training for staff to be able to spot the characteristics of a child who is being abducted or a situation in which the child is being abducted.

So we are trying to come at this from a lot of different angles. We also have an interagency group that meets twice a year to discuss how we can all cooperate best on this.

Mr. SMITH. We have four very, very loving and committed parents—two mothers and two fathers—who will be testifying and I do hope your office knows about them, knows their cases well.

But if you could take their testimonies to heart again, with a new commitment. Ms. Abbi, who is the mother of a child abducted to India, Mr. Cook, father of a child abducted to Japan, Dr. Brann to Brazil, his child Nico, and Ms. Barbirou to Tunisia.

Now, all of those countries are listed as problem countries in the report and it is my sincere hope that the other shoe, and if you can give us any insight as to whether or not this will happen—the other shoe, which is the sanctions part, will that drop?

I've authored a number of other human rights laws including the Trafficking Victims Protection Act of 2000 and it prescribes all kinds of penalties of countries on Tier 3 and very often we find on the enforcement side of the ledger there's a lot of admonishments but not a whole lot of penalties.

On the International Religious Freedom Act there are countries called CPC countries, as you know so well, and very often they get a lot of good diplomatic chatter but not a whole lot by way of the 18 prescribed sanctions that are articulated in that legislation, which was enacted in 1998.

And then so will there be a sanctions—serious sanctions effort that will follow now the naming of these countries?

Ms. CHRISTENSEN. There will be a serious evaluation of what next steps would be most appropriate for those countries and for each individual case.

I know you've heard us talk about persistent diplomacy, about creating a steady drumbeat and I know sometimes when you look at the list of actions and it says we're going to raise these cases, we raise these cases at the highest levels and we engage with those countries at the highest levels.

And there's a question I'm sure amongst all the parents about what does that mean, what is this diplomacy that you're engaging in? I know you've spoken with Ambassador Susan Jacobs, who's our Special Advisor for Children's Issues.

You've spoken also with our Assistant Secretary, Michele Bond. Both of them travel frequently and everywhere they go they talk about these cases.

I have been twice to Japan and spoken with the Japanese authorities there prior to these two returns that we've had. And I can tell you that those conversations, although we say raise the cases, it's much more than that.

Those are very frank and, I will say, often very contentious discussions about the need to return these children with us pressing and pressing about things that can be done, suggesting, talking often with raised voices about these are steps that you can take to make these processes work.

Let me give you also an example from this week. I don't want to name a name or a country, but we had a very longstanding case in a non-Hague country, a case in which we were actually seeing some positive movement and we were expecting that it was quite close to resolution.

We heard from the left-behind parent some very distressing news about how things were proceeding. That very next day Ambassador Susan Jacobs was in speaking to the Ambassador from that country.

Our post in that country went out and met with two different ministries in the government and really working together to try to figure out what we believe will be a way forward that will protect both the child and the left-behind parent and lead, we hope, to a resolution.

Mr. SMITH. Let me ask you, on page 13 mention was made of the 213 returned from Convention countries, 86 from countries adhering to the protocols with respect to child abduction.

One of the provisions, Section 103, calls for not later than 180 days after date of enactment the Secretary shall initiate a process to develop and enter into appropriate bilateral procedures including a memorandum of understanding as appropriate.

It's an issue regarding Japan and India that I have raised for 7 years and maybe even longer but certainly at least that long and it seems to me that the bitterness of a Japanese left-behind parent whose child has been abducted to Japan is exacerbated and compounded as if they'd been left a second time when there is no procedure for those remaining cases.

And just calling a case closed because a child ages out or something along those lines is, you know, is—maybe they'll see them, maybe not someday but it's awful, in my opinion, for these families, some who have waited, you know, more than a decade, like Paul Tolland—well over a decade.

I have a big difference of opinion with the administration on this but I hope it'll be revisited. The MOUs have to deal with these other, you know, left-behind parents the second time because, as we all know, ratification of the Hague Convention starts at the date of ratification and everyone before that may get in, as was said earlier in previous testimony, by the good will that's generated. I don't believe that for a moment.

The culture takes a long time to change and if it's, again, those 40, for example, cases in Japan we'll still have 40 next year. Or though some may age out again and we'll be counting that as fewer cases. But that's really a poor excuse for true resolution.

So my question is about the MOUs and if you could tell us as well how many of the cases after the reporting period calendar year, December 31st, of those 4 have any of the 40 been resolved since then? We're 6 months plus into the new year. Anybody on that list been truly resolved by bringing the child home?

Ms. CHRISTENSEN. Let me start first by saying something about MOUs and why we continue to believe that the Hague Convention is so important because MOUs are simply a collection of what procedures already exist.

They don't create any new legal structures or any new potential enforcement structures and that's one of the difficulties that we see when we talk about MOUs and we always bring up MOUs and bilateral agreements with countries when we're talking about this.

But, quite frankly, because they don't create new legal structures they don't have teeth behind them.

Mr. SMITH. But they could create new administrative structures that would have the force of law—that a country that's committed and really feels that there is a penalty awaiting them, a sword of Damocles of some level in terms of a sanction, a country doesn't

necessarily have to go through the Diet or through their Congress or Parliament, although that would be nice, it could still——

Ms. CHRISTENSEN. It doesn't create a new legal structure for them to enforce something. Let me talk a little bit about Japan.

Mr. SMITH. Again, they can do it by administrative action. I mean——

Ms. CHRISTENSEN. Some things.

Mr. SMITH [continuing]. We make law all the time by Federal regulation that is given vague advice by Congress only to—or a vague mandate and then all kinds of things are promulgated with the same exact force of law and penalties that accrue thereon if you don't follow them.

Ms. CHRISTENSEN. I would also point out that there are countries in which we do have bilateral agreements and bilateral arrangements and all three of those countries are cited here for noncompliant. They're non-Hague countries that are under the pattern of noncooperation.

Let me talk a little bit about Japan, what exists now for the parents who are in that pre-Hague, those earlier cases. While they cannot file for a Hague return order, what they can file for is a Hague access.

They can file a Hague access case. That puts a little more force of government behind it, creates a few more tools at their disposal to—for Hague access cases.

We have encouraged parents to do this. A number of parents have filed Hague access cases. Not all parents have. That's, of course, their choice. We have seen some limited success there. We have seen a number of——

Mr. SMITH. How many have had success?

Ms. CHRISTENSEN. I'd have to look up exactly how many have had success. Has been a handful, I would say. I don't have the exact number in front of me, and success means—and let me qualify that because I know this is not what the parents would deem a success nor is it what we're looking for as an ultimate resolution.

But there are parents who have gained some limited access through the tools that the Japanese Government has put at their disposal and helps to manage and this limited access, of course, in these cases that are very, very longstanding, this access is the first step toward rebuilding that relationship that then hopefully will lead to the children also saying yes, I want to be joined with that family and I want to rejoin the left-behind parent.

So I understand that that's not a full success but we believe that that is a first step toward that.

Mr. SMITH. But again——

Ms. CHRISTENSEN. But we believe that that is a first step toward that.

Mr. SMITH. Having the child say pro or con, he or she wants to do that or they—children, siblings—is not in any way a determinant. I mean, in the Sean and David Goldman case the lawyers went out of their way to even put Sean Goldman in front of a camera with prompts for him to say how he wanted to stay in Brazil.

Talk to Sean Goldman now and there's—and there's no doubt that he was pressured into that kind of exchange. And I would fear taking the word of a 5-year-old——

Ms. CHRISTENSEN. I'm not—I'm not saying that at all. I'm not saying we just take the word for the child. I'm saying that that creates—that starts to rebuild that relationship that has suffered by being—by that long-term separation.

Can I also say something about India, since you mentioned India?

Mr. SMITH. Sure.

Ms. CHRISTENSEN. India, as you know, we have been talking to India for a long time and pushing India to join the Hague Convention and one of the sticking points has always been that they needed legislation to facilitate their accession to the Hague.

That legislation has now been drafted. It has been put out for public comment and the public comment period has closed. So they are actually taking a step toward Hague accession.

And another significant milestone in our work with India has been that for the very first time this has been mentioned by the prime minister. It was in the joint statement during Prime Minister Modi's state visit here recently and there was mention of international family matters in there and that is really a significant milestone that has been mentioned at that high level in India publicly.

Mr. SMITH. When the President and the Secretary of State met with Modi—I met with him, very briefly. I introduced him to Bindu Philips who has been waiting for years to even see her two sons.

The police department in New Jersey has documented that not only did the husband abduct her two children, and did so in the most fraudulent of ways, there's also a lot of theft involved and she was left pretty much destitute without her two children and her husband.

I mentioned it to Modi. He listened. I don't know if he'll do anything. I've met with the Ambassador on that case and several others—the Ambassador to the United States from India—and he stressed how important it was that we speak with respect to each other and I can tell you I deeply respect India. It's a robust democracy. But if it's failing and engaging in egregious human rights abuse against American children. I've had hearings on the Dalits and how they're abused in India.

We've had hearings on the endemic problem of child sex tourism within as well as into India.

All of that laid aside, we respect India, but solve these cases. And so I would, again, say to the Ambassador as I did privately there is no disrespect here. It's just the opposite.

We expect you to live up to the highest standards articulated in the Hague Convention. Whether you sign it or not, it is an international human rights norm and a treaty and a law for those who sign it.

But for the ones who, again, will be left out, I would encourage you in the strongest way to be thinking about an MOU that would—and I do believe new procedures could be included in an MOU. In countries and administrations, executive branches have wide latitude to come up with mechanisms that will effectuate the return of children.

And Bindu Philips, like so many others are quintessential examples of abuse and just like I said earlier some of these folks like

in Brazil win court case after court case and they still don't have their kids.

So I can't say enough. It's in the law about the MOU and Congress wants this. It was a bipartisan law and while three countries may not have lived up to an expectation of an MOU being effectual, it can be if it's made to be effective. It's a matter of prioritization, both sides, and doing it. And again, for the Japanese left-behind parents, having met with them so often and so many places, heard their testimonies but even more so heard them tell their stories with tears in my office and in other venues.

You've heard it too. We've got to be the wind behind their backs and that goes for all of the countries, of course. But they feel and they felt it then. Of course, sign Hague, ratify Hague. But don't leave us out again.

So I would encourage you please go back and think of an MOU vis-a-vis these countries that would really make this real.

Ms. CHRISTENSEN. Let me just say, for one of those non-Hague cases there was a case where the father is currently visiting his son and the older son already came back under a voluntary return.

I realize that is not a complete success for everybody but I think that is the beginning of a step in the right direction.

Mr. SMITH. You mentioned in the report on page 10 that approximately 100 judges from 65 countries are part of the judges network. How many Japanese, Tunisian, Indian, and Brazilian judges are a part of that?

Ms. CHRISTENSEN. I don't have the numbers of how many judges there are from each country. I know that we certainly have met with Japanese judges.

We have met with the Japanese judges. I think they only recently have officially declared that they are judges who are part of the Hague network.

We have our own Hague network judges that go out and visit with judges in all of these countries to talk about it on a peer to peer basis because often that is also effective and because our Hague network judges have travelled to a number of countries and they're familiar with a number of different legal systems.

We think they are a very effective tool for helping to explain particularly to new Hague countries how Hague can fit within their legal system.

Mr. SMITH. Let me just ask a couple of final questions and I thank you again for being here. Could you elaborate on page 32 on Japan's section? It seems to be in its own category, a limbo where I think it should be a pattern of noncompliance because of the so many unresolved cases.

Where do they sit and, secondly, just to quote the report, it says at the end of 2015, 40 open pre-Convention abductions remained. Of these, 32 were with the Japanese Ministry of Foreign Affairs for more than 12 months. In 2015, one pre-Convention case was resolved and 11 cases were closed and maybe you can explain. By closed were they aged out? What was that?

And then you point out that in 2015 Japan failed to comply with its obligations under the Hague abduction Convention in the area of enforcement of return orders. So now we're talking about the actual Convention and of course if you don't have enforcement you

don't have anything. You know, ask so many of the left-behind parents.

When the police fail to deliver the child or whatever the law enforcement mechanisms was, and then you say exposing what may be a systemic flaw in Japan's ability to enforce return orders.

What are we doing to push back on that? It seems to me that if any part of the stool is broken kids don't come home.

Ms. CHRISTENSEN. Right. Those are some of the most contentious discussions I can tell you that we've had is the discussion the enforcement and what Japan could do to improve its enforcement of the orders.

Here in this section when we're talking about 2015 in Japan, while there were several ordered returns or there were several return orders, the way the system works in Japan there's then another step that you have to take to actually request that those orders be enforced.

In 2015 there had been an attempt—one attempt to enforce one order. That was not successful. That particular case didn't then come for another attempt to—for to enforce the return order until January 2016.

So what we were looking at in terms of enforcement was we believed not a pattern of a lack of enforcement because there had only been a single attempt in a single case. But we did have concerns about the entire mechanism that existed for enforcement and whether that was going to lead to ongoing problems in the enforcement of return orders. Japan has actually issued a number of return orders and now we're into the enforcement phase and that's something that we're watching very, very carefully.

I mentioned that two of those return orders have been enforced so far this year. You yourself mentioned that one parent had to go outside the Hague for the eventual enforcement.

Mr. SMITH. Given that track record and, again, I think the narrative on Japan is chilling, how does it not rise to the level of persistent failure as—

Ms. CHRISTENSEN. We were looking at that enforcement in 2015. Those records were then enforced in 2016. As I said, there had only been one attempt.

Question was was that a pattern or was that a failure in a particular area. We think there was a very—Japan has a very well-resourced central authority. They provide counselling. They have a whole lot of resources.

But if the children don't return then that's a failure in that particular area which is the enforcement of the return order.

I will say although that—in that case they did have to ultimately go beyond the Hague—the Hague procedures in order for that return to be enforced in that first case. And as I said, I was there while that was happening. There was quite a lot of drama associated with it.

But I think that what that shows—what we hope that shows is that it was a commitment on the behalf of the judicial authorities in Japan, even beyond the Hague procedures to see those orders enforced.

And what we really hope is that that will then be an incentive for other parents to cooperate sooner in the process. That is what

we see as one of the greatest benefits of the Hague Convention is to discourage parents from committing these abductions to begin with.

Mr. SMITH. On the International Visitor Leadership Program, in 2015 the report says that judicial, administrative, and other leaders from 15 nations came here to learn how we do it. Were those nations Tunisia, Brazil, Japan or India, or other countries? I mean, what are the 15?

Ms. CHRISTENSEN. I don't have the list in front of me and we can certainly take that question back and send you that list. I know that we go out of our way to invite the countries that we believe do have the biggest challenges.

So we would invite judges from Brazil. I know that there was a group from Japan that visited this past year. I know that we particularly invite countries where we believe they could most benefit from our discussions. We're not going to invite necessarily the countries where things are working smoothly.

They don't need our help. We're going to invite the countries where we really think we have something to contribute in trying to make this work better.

Mr. SMITH. Since they would stand out, were there any judges from Japan? Stand out because their judicial system has shown itself to be so flawed when it comes to implementing these cases.

Ms. CHRISTENSEN. I don't believe judges from Japan have travelled here. However, I do know that our Hague network judges have travelled there and spoken to them in Japan on several occasions.

Mr. SMITH. That's about all I have.

Again, I would again ask you to please take the MOU request seriously. It is in the law, prescribed in the law. I think without it we'll be back here next year and the year after that and the year after that talking about maybe a diminishing number of cases from countries but only because individual children will have aged-out or perhaps the parents just exhausted financially, emotionally, and physically from this trauma; I don't know how any of these parents can endure this.

We have cases where we know there are concerns on whether or not the children are being abused, where there was history of abuse in the family. We have situations where bad advice was given by JAG officers, and I've read the report and I know at by nearby university, George Mason, 400 or so JAG officers got training and I think that's a good thing.

Ms. CHRISTENSEN. We also did training.

Mr. SMITH. The more we train the better, and thank you for that.

Ms. CHRISTENSEN. We also did training actually in Naha with JAG officers there. That was just this year. That was in May.

Certainly, I would like nothing better than for there to be no need for us to come up here, not because it bothers us to come up here but because we would like this problem solved.

Mr. SMITH. It has been my experience 36 years as a Member of Congress that when it comes to human rights even of our own citizens, very often other issues have a way of crowding out that concern. So it slips from page 1 to page 5 to an asterisk somewhere.

And it is very troubling that the parents say to me how discouraged they get dealing with our Government. They don't want to complain too much.

They're fearful there could be a backlash, that people would say well, if you're going to be so concerned well, forget it. I'm going to go slow on your case. I don't know if that's happened and I wouldn't think it could happen—

Ms. CHRISTENSEN. Let me put that to rest right away. Parents should not ever feel shy about contacting us about that.

Mr. SMITH. And being critical. I mean—

Ms. CHRISTENSEN. And being critical, and—

Mr. SMITH [continuing]. Who gets more criticism than Members of Congress? But I think it serves a purpose. It sharpens everyone's thoughts with regards to what course ought to be taken and I think the same goes for—

Ms. CHRISTENSEN. And we value very much our collaboration with the parents in trying to figure out what's the best way forward in any individual case.

Circumstances are different in each individual case and what might work in one might not work in another. So it's very important for us to have a very close collaboration with the families and talking about what's the best way forward.

Mr. SMITH. In terms of noticing Members of Congress when there is a case from their district, of course, we wrote that into the Goldman Act but we made it so that it was an opt-in on the part of the parents.

Are the Office of Children's Issues personnel advising families that an advocate could be your Congressman or Congresswoman? Is that okay if we do it? Do you have an X in the box somewhere?

Ms. CHRISTENSEN. I know it's something that we ask parents about all the time, yes—can we notify your Member of Congress, would you like us to notify your Member of Congress.

Mr. SMITH. And what do most them say?

Ms. CHRISTENSEN. I think most of them say yes.

Mr. SMITH. And do you? I mean, is there a formal letter that goes out to the members?

Ms. CHRISTENSEN. How we do notify them, yes. In fact we went back also to all the old cases and asked them.

Mr. SMITH. That's very good. Thank you.

And again, I would just make the strongest appeal that as you look at part two, the sanctions regime because they are stale and toothless if they're not employed.

You have all kinds of options pursuant to the Goldman Act whether it be an escalating effort and certainly the countries on the list and I would hope that Japan would soon be named for what it is rather than in this special category, that I don't know what it is, with Austria. Why is it there?

Ms. CHRISTENSEN. Well, as I said, it is in the law. There is a provision in the law that says has failed to comply with one aspect and in looking at it we felt, when looking at the—particularly when looking at their Hague compliance, that we hadn't seen a pattern yet. This does not mean a pattern cannot exist in the future and it's—we're keeping a very close eye on Japan.

It is something that we're watching very, very carefully. We continue to talk to the Japanese frequently on this issue.

Mr. SMITH. Okay. But again, even according to the narrative set forth on the situation on the ground in Japan only one of these have to be true, and one of them is law enforcement authorities regularly fail to enforce return orders.

Even the one that was procured under the Hague Convention went afoul and all the others simply haven't happened yet. That's beyond the pattern. That's almost uniformity.

So I would hope even now you'd go back and relook at this. Nothing precludes you from putting this back.

Ms. CHRISTENSEN. We're reevaluating everything for the next year's report.

Mr. SMITH. You could designate Japan tomorrow, if you'd like, based on the record, a reappraisal that it's a country that has persistently failed and therefore it's a pattern of noncompliance because it really is.

Because I don't understand that, in all candor, because we wrote the law. It's clear as a bell. I thank you.

Ms. CHRISTENSEN. Thank you.

Mr. SMITH. And again, look at the sanctions regime. If we use them, use them judiciously I think we will see a much sharper response from each of these countries and the net beneficiaries will be these American children and their agonizing left-behind parents.

Thank you.

Ms. CHRISTENSEN. Thank you.

Mr. SMITH. I'd like to now welcome to the witness table our second panel, beginning with Dr. Chris Brann, who is a physician in Houston, Texas. He received his B.S. in biology from the University of Texas-Pan American and a joint MBA-MD from Rice University and the Baylor College of Medicine.

He completed his medical residency in internal medicine at Baylor College of medicine and affiliated hospitals where he currently practices in internal medicine and is an assistant professor.

On July 1, 2013, his then wife, Marcelle, abducted their son, Nico, to Brazil and he has been before us before and we're all looking forward to his statement today.

We'll then hear from Ms. Richika Abbi who has been a legal permanent of the U.S. since 2010 and a citizen of India residing in Virginia, employed with Amazon Web Services. She came to the United States on a student visa in the year 2000. In 2001 she married a man from India in 2001 named Seth and they both came to the United States with the intent of permanently settling here.

Her child, Roshni Seth, is a U.S. citizen by birth born in 2007. Roshni resided with both parents in Virginia in 2014 when she was uprooted from her habitual residence and abducted to India by her father after he was convicted of violently assaulting her mother. Ms. Abbi has been desperately seeking her daughter's return to the United States for the last 2 years.

Then we will hear from Mr. James Cook, who's the father of four children, two sets of twins, who have been in Japan for 2 years. Later this month will be the 1 year anniversary of his Hague application to return his children to Minnesota.

In this time, he has only been allowed one visit with this children. All other contact was unilaterally severed by the taking parent.

The last contact and reply from his children was late August 2015. Mr. Cook works for Boston Scientific Corporation, a manufacturer of medical devices in Minnesota.

We'll then hear from Ms. Edeanna Barbirou, who is the mother of an abducted child to Tunisia and their two children named Zainab and Eslam Chebbi, who were abducted by their father to Tunisia. The family resided together in Maryland until February 2010 when Edeanna obtained a protective order and was able to remove herself and the children from the family home.

In January 2011, she and her ex-husband signed a legal separation agreement granting her full legal and physical custody of the children in exchange for maintaining visitation every other weekend, adding 1 weekday afternoon with the children with no child support.

In November 2011, however, her ex-husband picked up the children from their routine weekend visitation. It was later discovered that his friend drove them directly to Dulles Airport to depart to Tunisia.

Just four very compelling cases and I thank you for coming here to share with the subcommittee, to the Congress, and I hope the executive branch as well and I thank you for staying to hear your testimonies.

Dr. Brann.

**STATEMENT OF CHRIS BRANN, M.D. (FATHER OF CHILD
ABDUCTED TO BRAZIL)**

Dr. BRANN. Good afternoon. My name is Chris Brann. My son, Nico, was abducted from Houston, Texas and taken to Brazil by my ex-wife 3 years ago in July 2013.

Before I begin, I'd like to personally thank you, Representative Smith, Chairman Smith, for your tireless advocacy, unwavering support of my case and all of these cases, and holding this hearing today.

Additionally, I must note that Ambassador Bond and Ambassador Jacobs, U.S. Ambassador to Brazil, Liliana Ayalde, have all been involved in my son's case for many years and have expressed continued interest in seeing Nico returned home.

I'd also like to thank Deputy Assistant Secretary Karen Christensen for her remarks and her report.

My son Nico was born September 14, 2009. He's a cheerful, playful, and beautiful little boy and I love him deeply and I miss him deeply.

My ex-wife, Marcelle, and I separated in 2012 and while there were some irreconcilable differences we agreed on joint custody so that both of us could be in Nico's life. I did everything I could to protect Nico. When Marcelle, my ex-wife, asked if she could travel with Nico to Brazil to see her family I was hesitant.

I had heard the horror stories and I was familiar with Sean Goldman's case. But I said yes on the condition that we had a travel agreement in place making clear that she would bring Nico home.

And I knew all the Texas court orders made clear that Nico's permanent domicile was in Texas. I am the textbook classic case of somebody who did everything they possibly could do to protect themselves.

The law, I thought, was on my side. I was so incredibly wrong. In Brazil, I learned much later, that my ex-wife had immediately filed for sole custody of Nico, hiding the fact that we already had a joint custody agreement in Texas.

We now know that Nico's abduction was premeditated, facilitated by the school owned by Marcelle and her family. This means that she had been lying to me and to the Texas court when she signed the travel agreement. She never planned to bring Nico back.

I immediately filed a claim under the Hague Convention on the Civil Aspects of International Child Abduction to have my son returned home to Texas and I also challenged the Brazilian court order of sole custody.

That was 3 years ago. Today, after 17 visits to Brazil and five to Washington, DC, things have actually gotten worse, not better, and there is no end in sight.

In July 2015, a Brazilian Federal court issued its final decision under the Hague Convention. The presiding judge, Arali Duarte, wrongfully found that Nico was well settled and refused to order his return.

Under the Hague Convention, that exception to prevent a return can only be invoked by a judge if the left-behind parent waited more than a year to file their case. I did not.

Also surprising was that the only precedent that the judge cited to justify her action was an old decision in the Sean Goldman case, which was later overruled by the Brazil Supreme Court. Apparently it did not matter that Sean Goldman had been back in New Jersey for more than 5 years.

I am now looking at years of appeals and meanwhile the state court in Brazil that gave my ex-wife sole custody has refused to revisit that decision. It has even issued further rulings on custody, visitation, and child support.

Now, every time I go to Brazil there is a risk that I will be thrown in jail because I refuse to finance my own child's abduction by paying the \$3,000 a month child support payment that was ruled by the Texas state court judge, effectively rewarding Marcelle for illegally abducting my son.

There have been some small steps forward. The Government of Brazil agrees that Nico was abducted and must return to the United States.

In January, based on a request from the FBI, Interpol issued a yellow notice for Nico declaring him missing and the Brazilian Prosecutor General has opened two investigations, one a criminal and one civil into Marcelle's wrongdoing.

But despite these developments, Nico is still not home and there are no prospects that he will ever be returned, certainly not anytime soon.

These have been the longest 3 years of my life. Today, I only see Nico less than 1 percent of the time and only in the presence of armed guards. When I do see Nico it's painfully clear that I'm losing my son.

He doesn't speak English anymore. He doesn't remember his grandparents or his cousins. Whatever I ask he responds like a robot, saying Mommy doesn't like, meaning that he's not allowed to talk to me about it.

Brazil's disregard of its international obligations and the unwillingness of our own Government to use the maximum resources at his disposal only add to my intense pain.

While I am grateful that the State Department has been engaged on my case I'm incredibly disappointed that it has failed to take any action against Brazil for its persistent noncompliance with the Hague Convention for more than a decade. I cannot understand how Brazil allowed to continue to flout international law so blatantly without any repercussions.

The Goldman Act provides eight different options to the State Department up to serious trade sanctions. In Brazil's case we have only used one—repeated demarches—and this has about the same level of force as a post-it note stuck to a window.

Unless Secretary Kerry fully utilizes the Goldman Act's arsenal, the legislation is meaningless. Now, I know that you've heard countless left-behind parents testify to you and ask you to think as if these children were your own.

I'm a physician and I'd like to use a different analogy, if you will. I want you to imagine that your child is hospitalized and they have one of these superbugs that's resistant to common antibiotics including penicillin.

And I want you to imagine that I'm the doctor and that I continue giving your child penicillin knowing full well that it will not work.

I come in every day and you ask why isn't my child getting better and I keep saying we're going to keep trying to give the patient penicillin, knowing full well that no patient has ever recovered by taking penicillin.

That is the Einsteinian definition of insanity—doing the same thing over and over again and expecting a different outcome. Brazil does not respond to demarches. They do not respond to empathy. They do not respond to compassion. They do not respond to logic. They do not respond to reason.

They respond to consequences. And the way that we have been treating Brazil is absolutely insanity. As far as I know, they have never returned a child to the U.S. through the Hague Convention. And I'm not talking about what's been ordered or not ordered. I'm talking about feet on the soil in the U.S.

Now, everyone in this room is going to say Sean Goldman, Sean Goldman. But you and I both know that Sean Goldman was returned because of a trade bill that was put on hold.

We both know that his order would not have been enforced unless people like you or other high-level officials had engaged directly.

Effectively, we told Brazil that the consequence of not returning Sean Goldman would be so painful that they were forced to return him. More can be done. More has to be done.

I, as Nico's father, will never give up on him and I'm not asking you to do things for me that I can't do for myself.

As a physician I'm a gatekeeper between patients and life-saving medications. And as lawmakers you're the gatekeeper between me and the things that I cannot do for myself.

I implore my Government not to give up on him either. Nico is a U.S. citizen. He should be in home, in the United States with the family who loves him. I urge President Obama, Secretary Kerry and Ambassador Jacobs to act in my case and that of all the fine parents as if our children were your own.

This is a living death. I need your help. Nico needs your help. There is no statute of limitations on the love for a living child. Please do more. Please find a way to bring him home.

Thank you.

[The prepared statement of Dr. Brann follows:]

*Testimony by Christopher S. Brann
Before the Subcommittee on Africa, Global Health,
Global Human Rights, and International Organizations
House Committee on Foreign Affairs
Of the United States House of Representatives*

Hope Deferred: Securing Enforcement of the Goldman Act
to Return Abducted American Children

July 14, 2016

Good afternoon. Thank you to the House Foreign Affairs Subcommittee for giving me the opportunity to share my story with you today. My name is Chris Brann. My son, Nico, was abducted from Houston, Texas, and taken to Brazil by my ex-wife three years ago in July 2013.

Before I begin, I would like to personally thank you Chairman Smith for your tireless advocacy on behalf of Nico and all other left-behind parents. I am extremely grateful for your unwavering support of my case and for your holding this hearing today.

Additionally, I must note that Ambassador Michelle Thoren Bond, Assistant Secretary for Consular Affairs, Ambassador-at-Large on Children's Issues Susan Jacobs, and US Ambassador to Brazil Lillian Ayalde have been involved in my son's case for many years and have expressed continued interest in seeing Nico returned home.

My son Nico was born September 14, 2009. He was a cheerful, playful, beautiful little boy – and I love him deeply.

My ex-wife, Marcelle, and I separated in 2012. While there were irreconcilable differences, one thing we agreed on was our love for Nico and our desire to do whatever was best for him. We agreed on joint custody so that both of us could be in Nico's life.

I did everything I could do to protect Nico. When Marcelle asked if she could travel with Nico to Brazil to see her family, I was hesitant. I had heard the horror stories and I was familiar with Sean Goldman's case. But I said yes – on the condition we had a Travel Agreement in place making clear that she would bring Nico home. And I knew all the Texas Court orders made clear that Nico's permanent domicile was in Texas. The law, I thought, was on my side.

I was so incredibly wrong.

In Brazil, I learned much later, Marcelle immediately filed for sole custody of Nico. In doing so, she hid from the court that we already had a joint custody agreement in Texas. These proceedings were conducted *ex parte*, and I was left in the dark until it was too late. Worse yet, it turned out Nico's abduction was premeditated. Marcelle had enrolled Nico in a Brazilian school three months earlier – a school owned and run by her family – and she had accepted a job

offer there. This meant that for months, she had been lying to me and to the Texas court when she signed the Travel Agreement. She never planned to bring Nico back.

When I found out what had happened, I again put my faith in the law, believing there was no possible way that my ex-wife's blatantly illegal abduction of our son would be allowed to go unchecked. I immediately filed a claim under the Hague Convention on the Civil Aspects of International Child Abduction and challenged the Brazilian court order of sole custody.

That was three years ago. Today, there is no end in sight.

In July 2015, a Brazil Federal Court issued its final decision under the Hague Convention. Presiding Judge Arali Duarte wrongfully found that Nico was "well-settled" and refused to order his return. Under the Hague Convention, that exception to prevent a return can only be invoked by a judge if the left-behind parent waited more than a year to file their case. I did not. It did not matter that he was stolen from his home in Texas. It did not matter that there have been ten independent assessments demonstrating that I am a loving father, including from the Brazil Central Authority, Brazil's Office of the Attorney General, a Brazilian court-appointed psychologist, and Judge Duarte herself. It did not matter that the only precedent Judge Duarte cited to justify her action was an old decision in the Sean Goldman case, which was later overruled by the Brazil Supreme Court. It did not matter that Sean Goldman had been back in New Jersey for more than five years.

I am now looking at years of more appeals. Meanwhile, the State Court in Brazil that gave my ex-wife sole custody has refused to revisit that decision. It has even issued further rulings on custody, visitation, and child support. It is beyond belief to me that Brazilian courts are rewarding Marcelle for illegally abducting my son.

There have been some small steps forward. The Government of Brazil agrees that Nico was abducted and must be returned to the US. In January, based on a request from the Federal Bureau of Investigation, INTERPOL issued a Yellow Notice for Nico, declaring him missing. And the Brazil Prosecutor General has opened two investigations – one criminal and one civil – into Marcelle's wrongdoing. But despite these developments, Nico is still not home – and there are no prospects he will be returned anytime soon.

Today, I only see Nico less than one percent of the time, and only in the presence of armed guards. When I do see Nico, it is painfully clear that I'm losing my son. He doesn't speak English anymore and he won't discuss even the most innocuous things about his current life such as what subjects he likes in school, who his friends are, or how much he likes to play soccer. Whatever I ask, he responds like a robot: "Mommy doesn't want me to talk about that."

These have been the three longest years of my life. I am fighting against forces larger than myself, with deep pockets and even deeper political influence in a foreign country. My former father-in-law Carlos Guimarães is the CEO of a global multinational company ED&F Man Brasil, whose headquarters are in London. The Federal Judge in Brazil noted in her ruling that he helped facilitate my son's abduction – using company resources, he had his assistant at his company book plane tickets for Marcelle and Nico to make it appear like they were returning to

Texas, even though he knew they were never coming back, as only a few days earlier the judge in Brazil had granted Marcelle sole custody. Repeated requests for answers from ED&F Man by my counsel have gone unanswered. Perhaps this Committee or journalists here might ask ED&F Man why company policy allows their executives to use company resources to abduct children across international borders.

Brazil's disregard of its international obligations and the unwillingness of our own government to use maximum resources at its disposal only add to my intense pain. While I am grateful that the State Department has been engaged on my case, I am incredibly disappointed that it has failed to take any action against Brazil for its persistent non-compliance with the Hague Convention for more than a decade. I cannot understand how Brazil is allowed to continue to flaunt international law so blatantly without any repercussions. The Goldman Act provides eight different options to the State Department, up to serious trade sanctions. In Brazil's case, we have used only one: repeated "demarches." This has about the same level of force as a post-it note stuck to a window. Unless Secretary Kerry fully utilizes the Goldman Act's arsenal, the legislation is meaningless.

More can be done. More has to be done.

I will never give up on Nico. I implore my government to not give up on him either. Nico is a US citizen. He should be home in the US with his family who loves him. I urge you, President Obama, Secretary Kerry, and Ambassador Jacobs, to act in my case and that of all left-behind parents as if our children were your own. I need your help. Nico needs your help. Please find a way to bring him home.

Thank you.

Mr. SMITH. Thank you, Dr. Brann.
Ms. Abbi.

**STATEMENT OF MS. RUCHIKA ABBI (MOTHER OF CHILD
ABDUCTED TO INDIA)**

Ms. ABBI. Good afternoon, Chairman Smith, members of the subcommittee and officials from all other departments here as well as my fellow left-behind parents and their supporters who are present here in person and in spirit to advocate the return of our abducted children.

My name is Rachika Abbi and I'm a permanent resident of U.S., a citizen of India residing in Chantilly, Virginia. My daughter, Roshni Seth, she is a U.S citizen and she was a mere 6½ years of age when she was abducted to India by her own father and he refused to come back and bring her back home.

I have been desperately seeking Roshni's return for over 2 years. I was in India for almost 1½ years. I have been seeking her return to her home country where she was uprooted from, based on multiple court orders, not just from U.S. but also from Indian courts. But Roshni stays separated from me. She is deprived of my love and care and she is held as a hostage thousands of miles away.

I am often seen carrying this teddy bear and maybe judged as well. Not many people know that what I carry is my hope, my hope which will be deferred. It gets dwindled from time to time but I strive really hard to keep it alive, to revive it and keep it alive every single second, every single minute, every single day.

Roshni's bear, Riley, was actually abducted, or you may want to say, she accompanied her when she was taken and I was in India with Roshni and couldn't bring her back and Roshni sent her bear back with me, telling me Mama, I can't go back home but please take Riley home.

Roshni's bear made it back. She stands with Roshni and I am moving heaven and earth here to bring Roshni home as well.

It's not just Roshni. There are so many children out there who are victims of international parental child abduction, a crime committed not by a stranger but by one's own parent. These children are wrongfully abducted and detained in different parts of the globe, robbed of a loving parent and normal childhood.

My heart goes out to all these children and their seeking parents across this nation. I am advocating the immense need to eradicate this global curse of international parental child abduction.

I'm an active member of Bring our Kids Home and the underlying message in my testimony is that parents of American children like me, victims of international parenting kidnapping to India, is enormous and often insurmountable obstacles in seeking the return of our children.

We receive little assistance from the U.S. Government and no assistance at all from the Indian Government. Despite the fact that these cases have been lingering for years.

I'm here today asking for help—your help. I'm asking that our children be returned home to the United States without further delay.

In the recent report on IPCA, India was called out as one of the over 20 countries who have been showing patterns of noncompliance resolving these open cases of abduction.

India is persistently failing to work with the U.S. to resolve abduction cases and does not adhere to any protocols with respect to these cases.

By December 31, 2015, 83 reported abductions remained open, which represent almost 94 abducted children. Sadly, my daughter Roshni is one of these 94 abducted children—94 unfortunate children who are called out as open abduction cases in this report.

I have been in the U.S. since the year 2000 and was blessed with Roshni on Christmas Eve on 2007. She was an active 6-year-old Girl Scout Daisy. She was loved by her parents and neighbors. She was attending kindergarten school in South Riding, Virginia. She enjoyed piano and swimming lessons. She was having the time of her life. She was blossoming, growing up.

But all of a sudden on April 15, 2014, 2 years ago, when I was traveling for an overnight business trip, I was in North Carolina. She was surreptitiously taken by own father to New Delhi, India.

I left in the morning, handing her over to him, as I would normally do whenever I went to travel. And in the evening I was trying to reach her on FaceTime and phone and nobody responded and I just had chills.

I started called friends and neighbors frantically only to realize that I was facing the worst fear of my life. Once inseparable, she wouldn't stay without me even for a few minutes. But now she was snatched away all of a sudden from me.

Looking back, I still shudder at the very thought of the night when I flew back to Virginia. Imagine coming back to the silence and emptiness of the abandoned home.

It was left with nothing, nothing but memories and belongings of my only daughter suddenly taken across international borders. Her toys were all over, her bicycle was lying outside, and there was nothing else in that house.

I was grieving that day. I was grieving as if—you know, she was alive but I was grieving because I knew he was not coming back. I knew he was not bringing Roshni back. He abandoned the house, the marriage, of course, the marital debt, his employment, his permanent residency status. He abandoned everything and just disappeared.

In this case—in my abduction case it was not in defiance of any custody order. It was not a refusal from, a return from a vacation in India. It was a preplanned successfully executed kidnapping of my daughter.

Two years before abduction he was arrested for domestic violence which took place in front of Roshni and then she also witnessed his arrest for DUI. And during the probation he had multiple violations for which he was facing criminal charges and even jail time. And Roshni continued to witness this discord, disagreements as I succumbed to the emotional, physical, and verbal abuse. But I could never muster the courage to get out. I couldn't have done what he did to me.

Given his threats, I also enrolled Roshni in the CPIAP program. But due to pressure I had to give my consent for her passport renewal.

I really wish when the Department of State called me for my consent and I asked them, given the situation, if at all this happens, if she is taken away will you be able to help me get her back and they said we do have measures in place and we will be by your side.

I really hoped. They told me if you see that imminent threat to her abduction, do not renew her passport. I know I wasn't able to safeguard the passport but I wish they told me—I wish they told the pandemic nature of this issue—how many cases are unresolved, how parents go through the trauma and they're not able to bring their children back.

I wish they told me and I wish there were certain travel alerts in place for parents or exit controls for children who have ever been entered into this program. In my case, she was entered.

Yes, I gave my consent. But then if there was some alert this could have been averted. But it was too late. I had lost her already.

And my only recourse was legal and, you know, ongoing legal battle in U.S. and India. For 27 months I have been running from pillar to post. I have embroiled myself in international legal proceedings.

I have faced extreme hardships at various fronts: emotional and financial and the harsh reality of navigating the legal system in India that is largely insensitive to parents of child abductions and ill-equipped to deliver from justice.

During this time, the access to Roshni was curtailed for prolonged periods and as of now I have not seen her or even had a glimpse of her in the last 7 months.

I had a custody order from Loudoun County Circuit Court. It gave me sole legal and physical temporary emergency custody and also stated that Loudoun County Circuit Court has both subject and personal matter jurisdiction over the father and the mother and full authority for my child's custody determination.

Desperately seeking reunion with my daughter, I immediately went to India. This was 4 months after the abduction. I filed a writ of habeas corpus and in my case by God's grace I did get her interim custody back.

But there were restrictions on her travel. I couldn't bring her back. I had gone for a few weeks. I thought I would be going back and forth.

But then I had my daughter but I was trapped. Roshni was with me at my parents' house for the first 8 months and I was stranded and I fought jurisdiction challenges in Indian courts.

But because of financial hardships I just couldn't keep up. I had to travel back and that took a toll on my child. She was heartbroken when I told her that I'll have to leave you with my parents.

But I assured her I would come back for you and take you back to where you belong. But after that, once I left she was abducted again. The father took her for visitation and refused to send her back to my parents' house.

After that, I just couldn't reunite with her. I got an order from the Supreme Court of India that stated when the mother comes

back she will get the custody and at that time considering her plight I dropped everything again and I went back.

But the father will obeyed the order. He told me you can come with any order from any court with armed forces—I am not handing Roshni back over to you. That's what he told me literally. I was standing on the street. And during this period it was almost for 7 months I stayed there. Roshni was called to Supreme Court of India multiple times. Once she was called in open court. I was sitting like this and she had to walk up to the judges to answer maybe the hardest question of her life—dad or mom.

She didn't look at me in my eye. I wasn't allowed to go and embrace my own daughter. I wasn't allowed to console her. I was told no, she is traumatized and she was sent back to the father, to the abducting parent because she was traumatized and the mother wasn't allowed to console her.

Obviously, in those months she was—she was showing signs of parent alienation and again I lost her. This time it was to parent alienation. After 7 months she was called again for another in chamber hearing, the fourth one, and the case was disposed of.

They sent me back to family court. So high court, family court—I went to the Supreme Court. The Supreme Court went back to family court and I'm still just going through the legal proceedings.

While the justices delayed here, I am still hoping every single day that in the end it will be denied. She remains wrongfully detained in India without a valid U.S. passport because I cancelled her passport and without an Indian visa the absconding father was rewarded with her custody. He is not even employed.

The courts in India took a straightforward child abduction case and turned it into a complex international legal web. It's like going to emergency room asking for medical help for a bleeding finger and doctors end up performing an open heart surgery on you literally without even giving you anesthesia.

I feel legally humiliated, emotionally exhausted by lack of laws and awareness, systemic delays, and insensitivity of the judicial in India. But most importantly, it's the suffering our children are going through. It is unpardonable. The psychological trauma and ordeal that my little girl has suffered for over the past 2 years it just gives me chills.

Parental alienation is child abuse. Abduction is child abuse. How can child abuse go unpunished for so long by not one but two countries? How can Roshni's government—the U.S. Government—fail her? Why is the U.S. so powerless? We parents do not understand this at all.

U.S. is so powerless in helping her own children and citizens. Why? How could the world's largest democracy, India, who has such great ties with the U.S., how can it be a safe haven for child abductors?

I'm sorry. I may be going a little over time. But I just want to highlight a few systemic challenges here as well before I close my testimony.

Left-behind parents, regardless of their gender, ethnicity, nationality, they face extreme challenges in India seeking the return of their kids. Indian courts often choose to relitigate custody decision

already made in the best interest of child by courts where the child was residing prior to abduction.

And most of all, the left-behind parents rarely get access to their children and the children are systematically alienated and that is what happened in my case. They are alienated from their parents and all this is done in the name of welfare of children.

I really want to underscore that even in the instances like mine where a left-behind parent gets a favorable order, these orders are ignored. They are violated. They are appealed for years and they are even reversed in some cases. That happened to me.

Every parent's nightmare is the fatal loss of their child. It's the harsh reality of IPCA. I really want to call out this one case here that we heard of in April 2016.

The tragic and mysterious death of the 6-year-old American child. Her name is Kiara. She was in wrongful custody of her mother in Mumbai. This should be a wake-up call to both our governments. There are much needed urgent and decisive actions that need to be done to protect victimized children from harsh realities of IPCA.

Kiara's father had her sole custody from the U.S. and also from India but the order got appealed and Kiara met with an unnatural death during the pendency of these proceedings.

Also, India's duplicitous treatment on IPCA cases depending on whether they are inbound or outbound doubts about India's commitment to upholding the rule of law, rights of children and families.

For years we have been informed that India does not recognize parental abduction as a crime and often treats our cases as routine child custody cases.

But then on the other hand, there was a recent outbound child abduction case and that shows that Indian court and law enforcement do in fact recognize parental child abductions as a crime and they'll not hesitate to apply any legal tools to return to seek the return of abducted children from other nations.

So outbound abductions are obviously treated and we do not understand this bias. The Chief Justice of India recently made a public remark about left-behind fathers and he said that Indian court orders could not be mechanically enforced by Indian courts.

He said U.S. courts have a different approach. Can Indian courts ignore the situation where the mother of her child was not represented in the U.S. court and was incapable of doing so on account of paucity of means?

He said pointing out that situation the welfare of the child would weigh with the Indian court. I do not understand this. Why is there a bias? Why are they talking about left-behind parents as fathers? It's both. It's fathers and mothers.

Also, highlighting cultural and gender bias and I will close soon. Indian officials state that India has a responsibility to protect those who are fleeing from abuse from other nations.

There's a euphemism used to describe the situation that women of Indian origin who claim abuse in countries of their habitual residence after reaching India they seek criminal and civil remedies in India by filing charges against, in most cases, their estranged spouses, estranged husbands.

As a victim of domestic violence, I do empathize with anyone who has suffered consequences of DV. However, as a law abiding citizen, I do not support child abductions in the name of escaping abuse from DV, especially those mothers who abduct their children to India from United States where there are robust protections for victims of DV.

The negative consequence on child abductions on victimized children cannot be justified by any allegations and for the Government of India to not offer any protection to our victimized children and failure to hold child abductors accountable has no moral or legal standing.

India's Ministry of Women and Child Development is the key ministry tasked to address the issue of IPCA in India. But MWCD appears so speak on all sides of the IPCA debate, thereby raising serious doubts about its commitment to protecting children's rights distinctly from its efforts re women's empowerment in India.

I continue to seek justice in Roshni's return. I continue to work and pay off the old and new debt. Roshni's father continues to hold our daughter as a captive, block all her access, damage my relationship with her beyond repair and erase me from her life.

I'm really scared at times that she may think that I have abandoned her. So from these hallowed halls of the U.S. Congress I really want to implore my estranged husband, Roshni's father, in words of the great Indian poet, Tagore, by plucking her petals you do not gather the beauty of the flower. By snatching Roshni you are only despoiling her in a sense her childhood, her womanhood, and for Roshni I just want to tell her that I really love you and you may be miles apart but you are you always will be a part of me and no one can abduct that feeling from me. No one can steal that feeling from me.

I am hoping that by sharing my personal story today I am not just seeking Roshni's return but I am also seeking the return of Alfred, Albert, Reyansh, Abdallah, Nikitha, Vihaan, Indira, Rhea, Trisha, Pranav, Kireeti, Krish, Kashvi, Archit, Ishaan, Siva Kumar, Avantika, Aryan and the list goes on.

I am seeking return of these voiceless American children who are being denied the love of their left-behind mother or father whose human rights continue to be violated in a nation that we all admire, the one that shares our value and yet is unable to deliver justice to innocent victims of this crime.

I plead the U.S. Government, the Government of India, the Department of State to intervene here, to interject, to do whatever it takes and help us bring our kids home.

Thank you, Chairman Smith, for your continuing efforts and staying by our side and thank you for giving this opportunity to speak on behalf of Roshni and our children.

[The prepared statement of Ms. Abbi follows:]

Ruchika Abbi

Seeking Parent (Mother) of Abducted Child (Daughter) to India

Bring Our Kids Home / iStand Parent Network

Testimony for the Committee on Foreign Affairs

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

July 14, 2016

Hope Deferred: Securing Enforcement of the Goldman Act to Return Abducted American Children

Good Afternoon Chairman Smith, Ranking Member Bass, Members of the Committee and officials from other departments as well as my fellow left-behind parents and their supporters who are present here in person or in spirit to advocate for the return of our abducted children. My name is Ruchika Abbi and I am a Permanent Resident of USA and a Citizen of India residing in Chantilly, Virginia. Thank you for giving me this opportunity to speak on behalf of my daughter, Roshni Seth, who is a U.S. Citizen by birth, 8.5 yrs of age and was abducted to New Delhi, India by her own father, over two years ago.

I am an active member of "Bring Our Kids Home", an organization founded by left behind parents in 2015 whose children have been abducted to India from the United States. In my testimony, I will primarily focus on my daughter, Roshni's abduction to India and all the hardships I have been facing to secure her return to the U.S. based on multiple interim custody orders from the U.S. Court as well as Indian Courts.

My heart goes out to all our children who have been victims of this crime and to their seeking parents across this Nation. I am advocating the immense need to eradicate the global malaise of International Parental Child Abduction.

Roshni, in Hindi, means radiance, the light that guides me in the lingering moments of darkness and despair. Roshni is not just a little person whom I seek but also what I seek. I seek the brightness that only comes from within and flames a torch to enlighten everyone. *"Life is no 'brief candle' for me."* - said George Bernard Shaw - *"It is a sort of splendid torch which I have got hold of for the moment, and I want to make it burn as brightly as possible before handing it on to future generations."* Today, this very moment in time, I take the pride to hold and carry forward this flame of the IPCA Awareness Torch. This torch was lit and enriched over the years by Rep. Smith and his staff who have played a key role in getting the Sean and Goldman Bill enacted into Law by President Obama on Aug 8, 2014 and Dr. Noelle Hunter along-with all other dedicated coalition partners of IStand Parent Network resonating – **"America's Stolen Children Must Come Home"**.

What is International Parental Child Abduction (IPCA)? What is international Parental Kidnapping (IPK)? What is The Hague Convention on the Civil Aspects of International Child Abduction? What is Sean and David Goldman International Child Abduction Prevention and Return Act (ICAPRA), 2014? These may be trivial questions for those unfamiliar with this heinous crime committed not by a stranger, but by a parent. Unfortunately, most of the policy makers, judges and law enforcement officials in many

Testimony of Ruchika Abbi for Roshni Seth, July 14, 2016

countries, like India, do not recognize parental child abduction as a crime. The means to deal with this criminal act and prevent it do not exist.

The underlying message in my testimony is that the parents of American children, victims of international parental kidnapping to India, face enormous and, often insurmountable obstacles in seeking the return of our children. We receive little assistance from our Government and no assistance from the Indian Government, despite the fact that these cases have been lingering for years! I am asking for help, I am asking that our children be returned home to the United States, without further delay.

The U.S. Department of State's 2015 IPCA report show India to be the No. 1 non-Hague signatory destination of IPCA from the United States and No. 3 from all over the world. The report also calls out India as one of the 22 Nations around the world that have shown patterns of non-cooperation in resolving child abduction cases originating from the United States. As reported in [The 2016 Annual Report on IPCA](#) released on July 11, 2016, India remains non-compliant :- ***"India demonstrated a pattern of noncompliance by persistently failing to work with the United States to resolve abduction cases in 2015. India does not adhere to any protocols with respect to international parental child abduction. During 2015, the Department had 99 reported abductions to India relating to children whose habitual residence is the United States. Of those, 25 were newly reported during the calendar year. While no cases had been resolved, by December 31, 2015, 83 reported abductions remained open."***

Sadly, my daughter Roshni is one of the 83 unfortunate children called out as open abduction cases in this report.

I am a Legal Permanent Resident of USA since 2010 and a Citizen of India, residing in Chantilly, Virginia employed as a Cloud Solutions Architect with Amazon Web Services in Herndon, Virginia. I came to the U.S. on a student visa in the year 2000 and got married to Suraj Seth in New Delhi, India in 2001 after which we both came to the U.S. with the intent of permanently settling here. Over the years, I joined the U.S. workforce and switched to H1 work visa, sponsored my husband's dependent visa and in year 2010 we both became permanent residents of the U.S.

Roshni - Stolen From Her Home Country, Separated from Her Mother

My daughter Roshni is a U.S. Citizen by birth, and I was blessed with her on the Christmas Eve, 2007 in Fairfax, VA. She was an active, 6 year old, Girl Scout Daisy, loved by her friends and neighbors. She attended Kindergarten in Liberty Elementary School, South Riding, VA, enjoyed her weekly piano and swimming lessons. All of a sudden, on April 15, 2014, when I was traveling for an overnight business trip to North Carolina, she was surreptitiously taken by her own father to New Delhi, India. I left in the morning handing Roshni over to her father and in the evening when I could not reach her on FaceTime as I normally would, I started calling friends and neighbors frantically only to realize that I was facing my worst fear. Once inseparable, Roshni was snatched away from me and deprived of her mother's love and care.

I still shudder at the very thought of that night when I flew back to Virginia. Imagine coming back to the silence and emptiness of an abandoned home left with nothing but memories and belongings of your only daughter suddenly taken away across international borders by your own spouse. I was grieving the sudden loss of my daughter who was very much alive.

Testimony of Ruchika Abbi for Roshni Seth, July 14, 2016

Roshni's father abandoned the house, the marriage, the marital debt, his employment, permanent residency status – he abandoned everything and just disappeared with Roshni. In my case, it was neither defiance of a custody order nor a refusal to return from a “vacation” in India. It was a preplanned, successfully executed kidnapping of my daughter.

Two years before the abduction incident, in July 2012, the father was arrested for Domestic Violence, assault and battery at a public place in front of Roshni and we got protective orders for 4 days from the Fairfax County Court. Within a few months, Roshni also witnessed her father getting arrested for DWI. During the probation period, while the father was going through Anger & Domestic Abuse Prevention & Treatment (ADAPT) program and Virginia Alcohol Safety Action Program (VASAP), there were multiple incidents of non-compliance and DWI Violations. Our marital relationship was only deteriorating and the father had started threatening me that he would take Roshni and move to India.

In April 2013, on the pretext of an illness for which the father wanted to get treated in India, he forced me to travel to New Delhi for a few days. But once we reached, I realized that he went there only to humiliate me in front of the extended families and pressurized me into signing a ‘Memorandum of Understanding’ (MOU) whereby I was forced to agree to sell the marital house and then relocate to India within a year. If I refused to sign the MOU he would not let Roshni go back to the U.S. and leave her with his family. I had no choice but to give into to his demands and signed the MOU thinking once I am back in the U.S., I will be able to safeguard Roshni as she is a U.S. citizen.

In Sept 2013, in response to the continued threats from the father, I entered Roshni into Children's Passport Issuance Alert Program (CPIAP), U.S. Department of State, Office of Children's Issues as her original was expired. However, once again, through threat and intimidation by the father and his family members and in an attempt to create a peaceful environment at home for Roshni, I was forced into signing the passport application giving consent for the minor child's passport renewal. Unfortunately, Roshni continued to witness the marital discord, disagreements and how I succumbed to emotional, physical and verbal abuse in the family but I could never muster the courage to walk out just so Roshni would at least continue to get the love from both the parents.

When a separation is inevitable, the next best thing for kid(s) is shared parenting and that's what I proposed in March 2014 but turned out that the father's wish to own the child was much bigger than my wish to give her access to both parents. The father had deceitfully planned the abduction to flee from the U.S. well in advance, to avoid the trial and possible jail time he was facing in Fairfax County Court, VA for DWI charges and multiple violations during probation. Just a day before leaving, the father filed a motion in Fairfax County Court surrendering his driving privileges and revoking from Virginia Alcohol Safety Action Program (VASAP) on account of permanent relocation. The marital house was under contract, to be closed on April 30, 2014 by both of us. We had an additional 2 months of rental post-settlement occupancy addendum so we could look for alternate accommodation during that period. I could never imagine he would just leave in the midst of all this. Roshni's new passport, that was blank, was at home and given the fact that for a new travel visa, both parents' consent is needed, I did not see any incumbent danger and did not remove the passport from our home. But the father was secretly holding on to Roshni's old passport which had a valid Indian visa that he used with her new blank passport to travel with her.

I wish when I was called by the U.S. Department of State to give my consent for Roshni's new passport – I was educated about the pandemic nature of IPCA issue and told – *“DO NOT RENEW THE CHILD'S*

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PASSPORT if you feel there is any imminent threat to her abduction" supported by some examples or statistics on the number of unresolved cases. If the U.S. Department of State and the U.S. Customs and Border Protection had certain travel alerts for the parents or exit controls in place for the children who were ever entered in CPIAP, Roshni's abduction could have been averted.

But it was too late. I had lost my daughter to parental abduction. After I came back from North Carolina, not knowing the whereabouts of either of Roshni or her father, I filed a missing person's report with Loudoun County Sheriff Department and promptly reported the incident to U.S. Dept of State. After about 24 hrs, I got a call from the father informing me that he had 'taken' Roshni to his parent's house in New Delhi and told me that he was never coming back with Roshni and I could either relocate and join them or live the rest of my life without Roshni. In the next few days, I was only allowed to occasionally speak with Roshni and she was under the impression that she was on a surprise vacation and I was going to eventually join them.

As a left behind mother seeking reunion with my abducted daughter, my only recourse was to take legal action in the U.S. and India. I did not press criminal charges against the abducting parent and followed only the civil route when I heard from the OCI that in certain cases, having a criminal warrant against the abducting parent would actually leave little room for negotiations during the proceedings in India for an amicable resolution to the case facilitating the return of the child. While the OCI mentioned that there were many other pending cases and I was not alone, due to privacy reasons, no other details were disclosed and for the longest of time, I was fighting my battle all by myself. I sincerely thank my Country Officer who has been guiding me through this horrendous maze but like many other left behind parents, I cannot seem to find an exit point at all. So clearly there is a lot more that needs to be done.

My Quest to Reunite with Roshni

(Excerpts of Indian Court Orders in [Exhibit A](#))

For 27 months, I have been running from pillar to post, have embroiled myself in international legal proceedings seeking Roshni's return to the U.S., facing extreme hardships at various fronts (emotional & financial) and facing the harsh reality of navigating the legal system in India that is largely insensitive to parental child abductions and ill-equipped to deliver prompt justice. During this time, my access to Roshni was curtailed by her father for prolonged periods. As of today, I have not spoken to or had even a glimpse of Roshni for the last 7 months.

U.S. Proceedings:

End of April - May 2014: I filed complaints with the Loudoun County Circuit Court for Emergency Custody, Child Pick-up and Divorce after consulting with expensive laws firms in the U.S. and India.

Due to a binding sale contract and upcoming legal expenses, I sold the marital house with the help of a Power of Attorney document sent by the father directly to the settlement company. He got 50% of sale proceedings electronically. As soon as he received the email notice for the complaints from the Loudoun County Circuit Court, he was outraged and called me telling me – *"Now you will speak to Roshni only when you come to get her back - legally"*. All communication was dropped thereafter. I traveled to India in between but was not given access to my daughter and the U.S. Embassy in New Delhi told me there was nothing they could do to help. Hardest was to come back without meeting her and stay in the house for 2 months after the closing and take care of personal belongings collected over a decade all by

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myself. I donated most of the stuff and held on to Roshni's belongings and moved to a rental condo in the same community with the intent of providing some continuity to Roshni when she came back.

Aug 2014 (U.S. Custody Order): After almost 4 months, multiple proceedings, serving the father a complete copy of all complaints and summons twice in India, The Loudoun County Circuit Court of Virginia, on Aug 12, 2014, granted Roshni's temporary emergency **Sole Legal and Sole Physical Custody** to me and directed the father to return to Virginia with our daughter and bear the travel/litigation expenses. The order also clearly stated that the Loudoun County Circuit Court has both subject and personal matter jurisdiction over the mother and the father pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and authority to make the initial custody determination of the minor child. All complaints were consolidated and Divorce was marked as pending. With this my total legal bill was almost 89k USD, out of which 35k USD was still outstanding to the law firm and I promised to pay on a monthly basis.

India Proceedings (I stayed in India):

Desperate to meet with my daughter, I went to New Delhi and initiated the legal proceedings to get the U.S. Custody Order enforced in India. I could work remotely for up to 10 days and was planning to keep going back and forth as needed during the pendency of legal proceedings in India.

Sept 2014 (Interim Custody Order): I filed a Writ of Habeas Corpus in Delhi High Court and I met with my daughter for the first time during a court ordered mediation process. She was very happy to see me and had many questions which I couldn't answer. Thereafter, by God's grace, I was given an interim custody order but solely on the basis of circumstances (prolonged separation of minor child from the mother) with a restriction on my daughter's travel and alternate day visitation to the father. The facts on abduction and the custody order from the U.S. Court were not given any consideration.

The order was violated and immediately the father filed a Guardianship Petition as a counter proceeding seeking custody in the lower Family Court instead. It took me 3 days to get the order enforced and take Roshni's custody. I was over the moon thinking I had reunited with her and eventually, the order would remove the travel restriction and let me take her back to the U.S. By now, she was admitted to a school in the neighborhood and was really struggling with studies as she was never able to finish Kindergarten in the U.S. and forced to skip the first grade completely in India. I took time off from work to fully focus on Roshni, help her with studies, help her heal and bounce back emotionally. We continued to stay at my parents' place thinking it was a temporary arrangement.

Sept - Oct 2014: To further harass me and diminish my hopes of resuming a peaceful life with Roshni, the father continued to file multiple applications in the High Court for modification of the interim custody order, get a red corner alert for me, a look out circular for Roshni and to get my passport deposited with the court pressing that I was a threat and could abduct her to the U.S. He also filed another Civil Suit in Delhi High Court for Injunction of the U.S. order and 21 lakh Indian Rupees (~14k USD) as another counter proceeding. When there was an order to deposit Roshni's passport to the High Court, the father simply refused having the passport despite the fact that he was the one who traveled with Roshni. I continued to obey all orders and keeping Roshni's best interests in mind, I always went out of my way to facilitate visitation at the father's parents' house while I waited for hours on his stairs. Roshni had a major separation anxiety and would cry inconsolably if she didn't see me waiting for her. That clearly showed how traumatized she was. She would always question me – *"When you were in US,*

dad didn't allow me to talk to you. Now that I am with you, why do you force me to meet with him every other day?"

Nov 2014: In contrary to what I thought, during the final disposition of the Writ Petition in Delhi High Court, the U.S. Custody order was clearly ignored and arguments on original jurisdiction were not heard. To my dismay, even though the Guardianship proceeding was initiated after the U.S. Court and Delhi High Court Proceedings, I was asked to submit to the jurisdiction of the Family Court in India, withdraw the cases in the U.S. in lieu of which the father would withdraw the counter Civil Suit and Delhi High Court would give directions to the Family court for a speedy decision. I went to India seeking justice and I was being asked to submit to their jurisdiction and be the Defendant/Respondent in counter proceedings. When I refused to withdraw the cases in the U.S., the case was still disposed of confirming the old interim custody order with travel restrictions for Roshni. No directions were given to the Family Court for a speedy disposal. Both Roshni and I were trapped. We were hostages of the abducting parent and the entire system was by his side.

I filed a jurisdictional challenge application in the Family Court which is still floating around after almost 2 years. I had to continue to make payments in the U.S. for my rental property, car, credit cards and pending legal fees. I started incurring more and more debt both in the U.S. and in India. I had to switch to an unpaid leave of absence and my finances and all hopes were running dry. Additionally, my permanent residence status was at risk because I was away for more than 6 months. Meanwhile, the father continued to abuse his visitation rights by taking Roshni out against her wishes and disappearing for hours while I waited on the street and several times I had to approach the local law enforcement to help me but they simply refused to intervene. I approached the U.S. Embassy and FRRO in New Delhi for assistance. Instead I found out that Roshni may have a look out circular which the father got on the basis of travel restrictions even in the absence of a clear order. Ever since, a free child has been living a life of a captive.

March 2015: I was devastated with no hope left and prayed every single day for some door to open. I had to sign a promissory note with my U.S. law firm that I would resume their monthly payments soon but I had no clue how that would happen. The fear of going bankrupt, losing permanent residence status and above all fear of losing Roshni all over again if I left her with my parents to take care of these responsibilities was killing me and I could not even enjoy the time I was able to spend with Roshni. I found pro-bono legal support to appeal the High Court Order in Supreme Court of India. The petition was admitted and I requested for an order to travel to the U.S. leaving my daughter with my parents while the pendency of the Supreme Court proceedings. Both the Supreme Court and the Family Court did not give me a written order that would safeguard my daughter's custody with my parents in my absence. I was verbally told that there was no restraint on my travel and if the father took the child again, it would be at his own peril.

April 2015: With a heavy heart, I explained the grim situation to Roshni in a way she would understand. I assured her that I would keep coming back for her until I took her back to her home in the U.S. and I traveled to the U.S. to resume work and to take care of my financial liabilities. At that point in time, I thought that was a very strategic move and the judiciary would see that the custodial parent does not live in India and the child needs to go back to the U.S. My poor girl was heartbroken when I had to travel and we would stay on phone, iMessage or FaceTime most of the time even when I was on the airplane, even when one of us would sleep on the FaceTime. But that only lasted for 2 days and she was re-

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abducted by her father. He took her for visitation from my parent's house and never brought her back. April 22, 2015 was the last time she called me on phone, crying breathlessly – *"Mamma, as soon as you come back, please pick me up from here"*. After that all communication was dropped again.

May 2015 (Interim Custody Order - Violated): My old parents filed complaints with the law enforcement and through legal representation, I sought the enforcement of the High Court interim custody order in the Supreme Court of India, where my jurisdiction challenge petition was pending. In my absence, after an in-chamber hearing where Roshni was present, the Supreme Court of India ordered that as and when I went back to India, I could take Roshni back with me, as an interim arrangement, so long as I deposited my Passport at the Supreme Court registry.

Considering the trauma Roshni was going through due to forced separation over and over again, I felt there was nothing more important at that time than to go back to Roshni. I immediately filed for another unpaid leave of absence and my employer, Amazon, was very empathetic with my situation, granted the exceptions I requested and did not terminate my employment. I flew back to New Delhi and surrendered my passport to the Supreme Court of India on May 25th, 2015. I got a compliance notice for the father that would help me take Roshni's custody.

I was shocked when the father outrightly refused to even look at the notice, refused to hand over the custody and willfully disobeyed the Supreme Court order. All my attempts to get the order enforced went in vain. Delhi Commissioner of Police and all law enforcement officials told me that I needed clear directions from the Supreme Court before they could take any action against the violator.

June - Nov 2015: I kept going back for Roshni and would cry my heart out on the street but neither was she allowed to step out to respond to me nor was I given even a glimpse of her. I filed a Contempt Petition with the Supreme Court seeking directions to the Police for enforcement of the custody order but absolutely no action was taken. The father got away by saying Roshni didn't want to come back to me and instead I was reprimanded and punished for leaving my daughter and traveling to the U.S. After over a month, Roshni was called to the Supreme Court again by the same bench who had issued the custody order previously. This time she was called at a very short notice and had a dialogue with the judges in an open court. She looked pale, confused and jittery as she passed me knowing I was there but didn't dare look at me in the eye as if she knew she was going to break my heart and didn't want to face me. Poor little girl probably faced the toughest question of her life - *"dad or mom?"* As she walked back, I kept calling her and as I approached her, I was not allowed to even embrace her and told she was already traumatized. A mother was not allowed to console her daughter and Roshni was sent back with the father. I felt disowned by my own daughter, dejected, shattered and speechless. I couldn't understand why in a month's time, Roshni just turned her back on me instead of running to me, embracing me and melting in my arms which is probably what she wanted to do. But a child who has been a victim of abduction, not once but twice, with fear of sudden separation from her mother over and over again and suppression of emotions by her own father, can be very well expected to hide her true feelings. It was nerve wrecking to see Roshni walk up to the high pedestal of the judges in a huge courtroom with so many unknown intimidating faces all around and most of all the father sitting right in her line of sight of every single second. Maybe this was her way of coping and saying no to abduction for the third time by maintaining a status quo with her father.

An order was given for me to meet with Roshni for three days in a neutral place and try my best to connect with my own flesh and blood living outside of my body. We met for 2 hrs in the father's presence the first day. During a few unsupervised minutes I got with her, she expressed that she was really confused and sad to see me cry in the courtroom and didn't know what to do. She told that she was not allowed to call me or see me whenever I showed up for her and screamed from the street so she stayed indoors. Before she left that day, she also told me clearly – *"if I don't come tomorrow, you don't cry or get nervous. Papa may say Roshni does not want to meet mamma, but you don't cry ok?"* That was the last time Roshni spoke to me heart to heart. Next two days the father showed up for visitation but stayed in the car and didn't even roll the windows down for me to talk to her. She kept staring at me and following all she was asked to do. I could see the helplessness in her eyes but I was helpless myself.

After that, I went to the court several times and a court ordered mediation for the third time where I was supposed to meet with Roshni in the supervision of a senior mediation lawyer but neither did the father bring Roshni for mediation nor was he questioned or any decision was given for compliance of custody order issued before. **In spite of being in Delhi for months, 5 minutes away from my daughter, I had no access to her. During this period I lost my daughter again. This time I lost her to Parental Alienation.** I went to her school and she refused to see me and I was escorted out of the school by security because the father had given an application that I was a threat and could kidnap my daughter. I had an option to come back to the U.S. as I waited for the proceedings but I lingered as I felt Roshni needed me and I couldn't leave her behind.

Nov 2015 (2-week Custody Order - Interfered): After multiple hearings, in another in-chamber hearing, Roshni was interviewed and then I was asked to interact with Roshni for a few minutes. Based on that, the Supreme Court gave another interim custody order stating *"we consider it just and proper and in paramount interest of child"* that the custody is to be given to the mother. But they only gave us 2 weeks and called all three of us back to the court for yet another in-chamber hearing – for the fourth time. These chamber hearings were taking a toll on Roshni and it was very hard to see her handle the burden of choosing a parent.

The father still got voluntary visitation at my place but he totally interfered with the order and did not allow me to spend any time to connect with her. He would take Roshni every single day at 4 pm and drop her for bed time after 11 pm and then show up again when I dropped her and picked her up from school. Roshni was programmed to resent me and cry if I kept her with me according to terms of the custody order. My sole focus was to keep Roshni happy and reduce her ongoing suffering so I made peace with the 2-3 hours I got with her every day but things between me and Roshni were not the same. When previously she was with me in India at my parents' house, she used to get so anxious if she didn't see me around her. But after she was abducted the second time in India, her soul was taken over by her father. The father had created a rift between us.

Dec 2015: Finally after 2 weeks, during the in-chamber hearing, Roshni clearly showed signs of extreme manipulation and the Supreme Court of India disposed of the case without a detailed hearing on jurisdiction stating *"It is not necessary to set out the facts of the case in detail"*. Roshni was sent back to her father (abducting parent even after recognizing heavy tutoring at the hands of the father, and the New Delhi Family Court was directed to decide the case in a timely manner.

Although I do not live or work in India, I was given a one-day visitation and no phone/Skype access which was yet another setback. After a disappointing end to a painful chase, with almost a year of unpaid leave of absence from work, I was on the verge of losing employment as well. So I got my passport back and returned to the U.S. - without my daughter. I have had no access whatsoever to Roshni since then.

March 2016: I filed a review petition and the Supreme Court of India dismissed that as well. Family Court has not given a decision on jurisdiction in almost two years.

It has been over 7 months since the Supreme Court of India disposed of my case and Family Court took over. It has been over 7 months since I connected with my daughter. It has been over 2 years since abduction. I sincerely hope that while Justice is surely delayed, Justice will not be denied.

Roshni is a U.S. Citizen by birth and lived all her life in the U.S. until her abduction. I initiated divorce proceeding in a timely manner and had an emergency custody order from the Virginia court, where Roshni was habitually residing and where the original jurisdiction lies. Father was duly served for all hearings. I had a court hearing transcript with additional supporting facts pertaining to the abduction incident. I was under the impression that no one could keep me away from my daughter, a girl child at such a tender age forcefully and abruptly separated from her natural mother by her own father who had a history of alcohol abuse and domestic violence in the U.S. Moreover, there has been no Divorce petition in India. Yet, Roshni remains wrongfully retained in India without a valid U.S. passport and a valid Indian visa. The absconding father, a child abductor, who has been unemployed in India was rewarded with the interim custody of an abducted child by the Supreme Court of India. I am still embroiled in Family Court proceedings and hope that while Justice is surely delayed, Justice will not be denied.

Courts in India took a straightforward child abduction case and turned it into a complex, international, legal web. It's like going to the Emergency room to seek medical help for a bleeding finger and the doctors end up performing an open heart surgery on you, without anesthesia.

I feel legally humiliated and emotionally exhausted aided by lack of laws & awareness, systemic delays and insensitivity of the judiciary in India.

But most importantly, the suffering our children are going through, is unpardonable. The psychological trauma and the ordeal that my little girl has suffered over the past 2+ years, gives me a searing pain through my being. She is barred from seeing her mother whom she loves dearly. Parental Alienation is child abuse! Parental Child Abduction is child abuse! **How can child abuse go unpunished for so long? How can Roshni's Government fail her? Why is the United States so powerless in helping her own children and citizens? How can the world's largest democracy, India, become a safe haven for child abductors?**

I can't emphasize enough on the anger, frustration and this sinking feeling of failure that I choke on every single morning I wake up and every single night when I go to bed - **Despite being a mother of a young girl, despite staying in India for almost 1.5 years with multiple custody orders in my favor not just from the U.S. court but also from multiple courts in India including The Supreme Court of India,**

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despite recognition of parental alienation, despite having a history of abuse in the U.S., despite everything - I could not reunite with my daughter and bring her back to the country that was home to her, where she was born and uprooted from.

Challenges Victims of IPCA face in re-uniting with their Children who are abducted to India:

- *Left behind parents, regardless of gender, ethnicity and nationality face extreme challenges in India, to seek the return of our abducted children, wrongfully retained in India;*
- *India's duplicitous treatment of IPCA cases, depending on whether they are inbound or outbound, raise serious doubt about India's commitment to upholding rule of law, rights of children and families;*
- *Indian courts often choose to re-litigate custody decisions already made in the best interest of the child by courts where the child resided prior to the abduction, children are rarely returned to their countries of habitual residence;*
- *Litigants in Indian Courts face long and costly delays, left behind parents rarely get access to their children, children are systematically alienated from their left behind parent and child abductors are awarded custody of victimized children based on a flawed assessment of "welfare of children";*
- *Cultural and gender bias are pervasive in Indian society and the Judiciary isn't immune. Upon reaching India, abducting mothers routinely file false cases of domestic violence (DV) and dowry (IPC 498A) charges against their husbands and in-laws, which cause severe hardships, including incarceration of victims of IPCA. Many Indian Judges and victims have described the misuse of these laws as "judicial terrorism", yet the problem persists;*
- *It is no coincidence that India is regarded as a "safe haven" for child abductors from the United States and other nations, who take advantage of a favorable Indian judicial system, and face no consequences for their wrongdoing;*

Over the last few years, left-behind parents like me who testified before this committee have shared our harrowing stories, however we continue to face unresponsive, often hostile legal and cultural environment in India when it comes to seeking justice and return of our abducted children.

Bindu Phillips, seeking return of her twin boys Albert and Alfred for 8+ years at the May 2013 hearing pleaded with the U.S. Congress - *"I pray that the story that I shall continue to recount to you will move you to help me seek justice for my family; that you will decide that Sunil Jacob should no longer be permitted to act with such callous impunity and harm our children in the process. I have done everything that I can think to do in this nightmarish situation, and I will never give up on my children. Yet, I am here because I can no longer fight the good fight on my own. I respectfully request that you help me to make my voice heard in a way that shall be meaningful and allow me to be reunited with my children who need the love and nurturing of their mother."*

Ravi Parmar, co-founder of Bring Our Kids Home, seeking his son Reyansh for 4+ years, called for action in the June 2015 hearing - *"We are not demanding any special favors from our government. But when parents are being left behind twice, once by the abductors and then by our own government, to fight a state machinery in another country, without direct and sustained U.S. government intervention, it is no coincidence that for every Sean Goldman, there are hundreds of Reyansh Parmar."* As Theodore Roosevelt said - *"No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right, not asked as a favor."*

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Dr. Samina Rahman, seeking return of her son Abdallah for 2+ years stated in July 2015 hearing - *“Our children are victims of a crime, a crime that if a stranger commits, society would be outraged by it, but because it is committed by a parent, our victim children don’t get the justice they deserve.”*

I am hoping that by sharing my personal story today, I am not only seeking Roshni’s prompt return, but also seeking the return of Alfred, Albert, Reyansh, Abdallah, Nikitha, Vihaan, Indira, Rhea, Trisha, Pranav, Kireeti, Krish, Kashvi, Archit, Ishaan, Siva Kumar, Avantika, Aryan and many more voiceless, American children, who are being denied the love of their left behind mother or father, whose human rights continue to be violated in a Nation that we all admire and one that shares our values, yet is unable to deliver justice to innocent victims of this heinous crime.

Additional Challenges in India

Custody Orders in India – ignored, violated, appealed, reversed

I want to underscore that getting favorable orders in India does not guarantee in any way the execution of those orders. Even those rare instances when the custody of the abducted child is ordered to be handed over to the left behind parent and the child is ordered to return to the country of habitual residence, these orders are hard to enforce. In almost all the instances, U.S. Court orders for American children abducted to India, are never enforced.

In other instances, return orders get appealed, orders are violated, local law authorities do not intervene in civil matters, contempt petitions linger on, counter lawsuits against seeking parents pile up, abducted children grow up and are alienated due to prolonged separation from their left behind parent. An everlasting legal battle denies justice and drains left-behind parents and their families emotionally, physically, and financially.

Rex Arul (seeking father) got directions from the Madras High Court in July 2011 that his daughter Rhea should be returned to him in Georgia within a week, but Rhea continues to stay in India after 5 years of that judgment. As part of the sesquicentennial celebrations of this High Court, this judgment, which was celebrated as a “landmark judgment” in the annals of this court’s 150+ years, is yet to reunite this child with her Father in the U.S. despite 5 years have since passed.

In Sanjeev Majoo’s (seeking father) case, Delhi High Court, in May 2011, based on the comity of courts principle, declined to exercise jurisdiction and awarded the custody of the abducted child Kush to the father. However, the Supreme Court of India reversed this order saying every child wrongfully taken or abducted to India will have its fate decided by the courts in India. Naturally, this is what incentivizes abductors to take the children and flee to countries like India, making it a “safe haven.”

Bandi Jagadrakshaka Rao, in July 2013, got the order from Supreme Court of India to bring his son, Anand, back to the country of original jurisdiction and the fact that the son was thoroughly brainwashed against the father was clearly highlighted. Despite that order, it took almost 3 more years, multiple court hearings, further damage to father and son’s relationship before there was another order in March 2016 to get the previous custody order enforced. In this case at least and at last, justice was served and Anand came home recently. But it came at a colossal cost. Anand was abducted to India – not once, but twice – and BJ Rao had to sell his home in Seattle, leave his job in the U.S., go to India and litigate in person since 2008. This victory was attained after 9 painful years of international litigation and innumerable trips to India during that time.

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The tragic and mysterious death of a 6-year old American child, in the wrongful custody of her mother in Mumbai, India in April 2016, is being investigated by the Indian law enforcement agencies. Kiara was denied the affection and presence of her loving father and two elder sisters, who remained separated in the United States since her birth. Dharmesh Ved, Kiara's father had sole legal custody of Kiara, via an order obtained from the Kansas Court, a contested legal suit. Dharmesh was able to obtain favorable Indian Court orders, however Kiara's unnatural death while appeals were pending at the Supreme Court of India should be a wake-up call to both our Governments to take much needed, urgent and decisive actions to protect victimized children from the harsh realities of IPCA. Unnatural death of Kiara is now a matter of Criminal Investigation under the aegis of the Supreme Court of India and the Indian law enforcement agencies purportedly have kept the U.S. DoS abreast of their findings. Every parent's nightmare – fatal loss of their child – is a harsh reality, when it comes to IPCA.

India's Unfair Treatment of IPCA – Encourage Child Abductions

India Differentiates Between Inbound and Outbound Child Abduction Cases

For years, left behind parents have been informed by legal experts, U.S. and Indian government officials that "India does not recognize parental child abduction as a crime". This contradicts long standing Indian statute like the Guardians and Ward Act, 1890 (paragraphs 9 & 26), as well as publicly available information emanating from India that show India's response to IPCA isn't uniform and based on arbitrary determination of "child's best interest".

Inbound international parental child abduction is not recognized as a crime in India. Indian Courts even fail to make findings that state children have been abducted from their habitual homes in the United States (or other Nations) to India, and are being wrongfully retained in India. Thus inbound child abduction cases to India are often treated as "routine child custody" cases. Indian Courts use arbitrary standards to determine "child's best interest" and wrongfully assert jurisdiction on foreign nationals and Non-Resident Indians (NRIs).

On the other hand, recent outbound child abduction cases from India show that Indian Courts and Law Enforcement do in fact recognize parental child abductions as a crime and will not hesitate to apply all legal tools to seek the return of abducted Indian children wrongfully retained in other Nations.

Case in point is the 2015 abduction of an Indian national child from the Indian city of Pune to Venice, Italy, wherein the Bombay High Court found that the child was abducted by her father to Italy and ordered India's Central Bureau of Investigation (CBI) to open a criminal investigation into the abduction of the child, issue Interpol Red and Yellow notices and initiate extradition proceedings. The order also directed the Indian Ministry of External Affairs (MEA) to seek the Italian Government's assistance in securing the return of the child and her abducting father to India.

These issues aren't limited to just one High Court in India. Recently on July 2, 2016, public remarks by the Chief Justice of India were published for "India must be aware of emerging international law" (Exhibit B), that the order of an abducted child's custody in favor of a left behind father "could not be mechanically enforced by the Indian courts".

"US courts have a different approach. Can Indian courts ignore to a situation where the mother of a child was not represented in the US court and was incapable of doing so on account of paucity of means," the Chief Justice said, pointing out that in such a situation, the welfare of the child would weigh with the

Testimony of Ruchika Abbi for Roshni Seth, July 14, 2016

Indian court."

"Indian courts would not be guided by Hague (Child) Abduction Convention that provides for an expeditious return of the child abducted by a parent and taken to another country."

These statements raise significant concerns for left behind parents like me, who are seeking justice from Indian Courts. I urge the Chief Justice of India to help us -- the victims and survivors of IPCA, that we aren't victimized twice and that the abducting parents, regardless of their gender, aren't rewarded for their wrongdoing, which is in line with the Indian courts' jurisprudence to not allow wrongdoers get the benefit of their wrongdoing.

India's Position, Hurting Children

Left behind parents from the U.S. face significant cultural bias and gender stereotypes in India. Publicly and privately, Indian officials state that "India has a responsibility to protect those who are fleeing abuse from other nations". A euphemism used to describe women of Indian origin who claim "abuse" in their countries of habitual residence, go to India and seek criminal and civil remedies in India.

As a victim of domestic violence ("DV"), I empathize with anyone who has suffered the consequences of DV. However as a law abiding citizen, **I do not support child abductions in the name of "escaping" abuse from DV, especially those mothers who abduct their children to India from the United States where there are robust protections for victims of DV. The negative consequence of child abductions on victimized children, cannot be justified by such allegations, and for the Government of India to not offer any protections for our victimized children and failure to hold child abductors accountable, has no moral or legal standing.**

Vikram Jagtiani's daughter Nikhita was abducted from New York to Mumbai three years ago by her mother. Almost immediately, she filed false DV and other criminal charges not only against Vikram but also his family including an 80 year old aunt. She also obtained an *ex-parte* order from an Indian Court to prevent Vikram from asserting any custodial right. The alleged criminal charges have prevented Vikram from traveling to India and he has not been able to meet with his daughter for 3 years.

Laws such as "Indian Penal Code 498a" (Anti-Dowry law) and "The Protection of Women from Domestic Violence Act 2005", are designed to address social issues that impact Indian society. However, these laws are often misused by mothers who abduct their children to India, as a tool to harass and intimidate left behind parents and their families who live in India. The alleged criminal charges prevent left behind fathers from traveling to India for months or years, thus prolonging the wrongful separation from their children.

Ironically, while these laws are misused by abducting mothers in India, for left behind mothers like me, abuse incidents that were not reported in India are not given due consideration during legal proceedings in India and we are advised and expected to reconcile with the abducting father and relocate to India for the sake of the child(ren) and family. Many seeking mothers like me moving heaven and earth to reunite with our kids abducted to India – including Dr. Samina Rahman and Swati Binaykia are subject to the same emotional blackmail and scrutiny in the name of cultural orientation.

India's Ministry of Women & Child Development (MWCD) is aware of the misuse of these laws in India. However, it continues to remain silent on its flawed enforcement. MWCD also appears to be a key ministry tasked to address the issue of IPCA in India. Their mission is:

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"Promoting social and economic empowerment of women through cross-cutting policies and programmes, mainstreaming gender concerns, creating awareness about their rights and facilitating institutional and legislative support for enabling them realize their human rights and develop to their full potential.2. Ensuring development, care and protection of children through cross-cutting policies and programmes, spreading awareness about their rights and facilitating access to learning, nutrition, institutional and legislative support for enabling them to grow and develop to their full potential."

The MWCD, appears to speak on all sides of the IPCA debate, thereby raising serious doubts about its commitment to protecting children's rights, distinctly from its agenda for women's empowerment in India.

Minister Maneka Gandhi, who heads the MWCD, on June 24, 2016 tweeted (Exhibit C) her recent request for a policy change to seek waiver of "father's consent" requirement for "separated parents" to obtain an Indian visa for a foreign national child, on the grounds that "women & children are not put to hardship". This request clearly misses the point on dual-parent consent to obtain visas for children and appears to favor one parent over the other based on their gender. This request also puts American children and children of other nationalities at a high risk of abduction to India and we urge that the well-founded protection for children against parental abduction is not undermined by the Government of India.

Two days earlier, on June 22, 2016, the MWCD posted the draft Bill on its website, which would implement the Hague Abduction Convention, in the event India accedes to it. While I personally welcome this development, I am concerned that given the MWCD's dual missions and track record, further progress on IPCA in India will require clear and unwavering commitment from the Government of India, including the MWCD to ensure all IPCA cases are treated fairly regardless of the abducting parent's gender, ethnicity or nationality, in a timely manner.

Child Abductors in India Spreading Misinformation - Putting Children At Risk

Earlier this year, a group of abducting parents and their attorneys in India, calling themselves "India is Home For Our Kids", started a campaign to present a distorted, counter narrative of IPCA cases and justify child abductions to India. They use emotional, pseudo-nationalistic arguments to deny existence of parental child abductions and oppose India's accession to the Hague Abduction Convention.

Comments posted by members of this group, in response to an article, "Parents of abducted kids seek justice from Obama", highlighting efforts by Bring Our Kids Home, raise serious concerns about victimized children's well-being in India, and highlight the pervasive legal and cultural challenges left behind parents face in India (Exhibit D).

The comments are disturbing on multiple levels, show how children, victims of IPCA in India have been alienated from their left behind parent/family, and are now being exploited by a group of child abductors and their supporters, to present a perverted narrative on IPCA to the Governments of India and the U.S.

I urge the Government of India to view the issue of IPCA from a children's rights perspective, understand the severe consequences on their development and avoid linking the issue of IPCA in anyway antithetical to women's rights.

U.S.-India Joint Statement: a Recent Development in India

Left behind parents from across our country have been seeking more assistance from our Government and President Obama to intervene on our children's abduction cases. After intense efforts from the parent community, we are beginning to see some results. The India-US Joint Statement signed during the visit of the Indian Prime Minister to USA in June 2016, agreed to make the resolution of cross-country marriage, divorce and child custody a bilateral priority. While the statement below is a welcome move by both Governments, we hope both Nations will provide urgent and much needed relief to victimized children and parents.

"48) Recognizing its mutual goal of strengthening greater people-to-people ties, the leaders intend to renew efforts to intensify dialogue to address issues affecting the citizens of both countries that arise due to differences in the approaches of legal systems, including issues relating to cross-country marriage, divorce and child custody."

India's Ministry of Women and Child Development (MWCD) recently published draft implementing legislation, "The Civil Aspects of International Child Abduction Bill, 2016", which is necessary for India's accession to the Hague Convention on the Civil Aspects of International Child Abduction 1980. MWCD also posted a statement explaining why India must sign the Hague Convention and requested suggestions/comments from the public by July 13, 2016. One key gap in the draft legislation is its lack of applicability for pre-Hague cases. This not only concerns me, but also other left behind parents who have pending cases in India. I urge both the nations to ensure that victims of IPCA to India, whose cases are pending must be resolved on an urgent basis and a bilateral framework be implemented prior to India's ratification of the Hague Convention.

Call for Action

- It has been almost 2 years now since the Sean and Goldman Law came into effect. The 2015 IPCA Annual report did not meet Congress' and our expectations. The 2016 IPCA Annual Report had been delinquent for over 2 months and released just this week. I urge the U.S. Congress and the current Administration to take all necessary steps to raise awareness about IPCA with all of the non-Hague signatory nations, starting with those nations who have been identified in the 2016 Annual IPCA Report as showing patterns of non-compliance, including India.
- I ask that this Committee, play an active role in overseeing the Departments of State and Justice when it comes to the issue of IPCA. Too many victims aren't getting the needed help. Very few cases of IPCA are prosecuted by the DOJ and even fewer extraditions are processed. This must change!
- I ask each member of Congress to do everything in their power to assist each constituent, who is a victim of this heinous crime. Without your sustained efforts, we know our kids cannot come home;
- I ask this Committee to actively engage with officials from India and other nations, where American children have been wrongfully retained and seek freedom for our children and help bring our kids home!
- I ask the Government of India to uphold the rule of law, do the right thing for our children and put in place robust protections to ensure abducted children are returned home promptly, regardless of their country of origin, ethnicity, the gender of the abducting parent;
- I ask President Obama and Prime Minister Modi to fully live up to the commitments you signed in June 2016, to put the return of abducted American children at the front and center of our foreign policy goals and build a strong foundation for our societies, safeguarding our children and families.

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Stand By Our Children!

I continue to seek justice and Roshni's return. I continue to work and pay off the old and new debt. Roshni's father continues to hold our daughter as a captive, block all access to her, damage my relationship with her beyond repair and erase me from her life.

Roshni is the primary victim of a crime, perpetrated not by a stranger, but by her parent. She deserves to be loved unconditionally by both parents – not held as a hostage thousands of miles away.

The biggest challenge I face is to stay positive, think big and long-term, regardless of the outcome of the legal proceedings and its repercussions, **I must prevail. I must prevail for my daughter, for myself and for our better future. I must continue to fight to Bring Roshni Home and continue to fight to Bring all Our Kids Home and be able to look back in retrospect to tell my daughter, my lodestar, that I didn't give up and 'you' are the one who helped me weather the biggest storm of my life!**

I am often sighted carrying a teddy bear. Not many people know that what I carry is my Hope. My Hope - may be deferred, may get dwindled but I strive to revive it and keep it alive. Roshni's bear Riley accompanied her when she was abducted to India. Then Roshni sent her back with me saying - "*I can't go back but take Riley Home*". Roshni's bear made it back. So will she.

Earlier this month, one of the greatest Holocaust survivor Elie Wiesel passed away. I wish to close my testimony with his words that truly echo in my heart - "To listen to a witness is to become a witness and that consoles us". It consoles our abducted children, left-behind parents and by listening to our testimonies, you have become witnesses yourselves.

Thank you once again, Chairman Smith and this Committee for given me a chance to speak for Roshni and our children abducted from the United States to India.

Art by Roshni: 2015



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Exhibits

Exhibit A – Excerpts from Indian Court Orders

- **Excerpt from Delhi High Court Order Dated Sep 5, 2014:**
*"We have been informed by the learned counsel for the petitioner that the custody of the petitioner's minor daughter is with respondent No.2 from 15.04.2014. **That as a natural mother she has been deprived of all access to the said child, who is aged about 6 years; that the child has been brought to India by the father- respondent No.2 without the mother's consent.** We are of the view that the girl child of such tender age needs the constant care and affection of her mother. She cannot be deprived of her natural right to maternal affection and vice-verse. It would be in the child's interest that the mother have immediate access to and care over her. **Therefore, pending consideration of the present writ petition, we direct respondent No.2 to handover the temporary custody of the child to the petitioner today itself.** However, during this period of the custody, respondent No.2 shall be entitled to meet the child at least once in two days for about 1-2 hours. We are informed that the child's parents reside in the same neighbourhood. **We also direct that the child shall not be taken outside Delhi or outside the country without permission of the Court.** We further direct that the child's attendance to school shall not hindered by either of her parents."*
- **Excerpt from Delhi High Court Order Dated Nov 7, 2014:**
*"Counsel for the respondents resisted the proceedings and contended that the respondent's custody of minor Roshni is lawful and that the court should vacate the order dated 5.9.2014. It is also submitted that now that the custody and guardianship proceedings are pending before the proper Court being G.P.115/2014 (before the Family Court, Tis Hazari Courts), habeas corpus would not be appropriate proceedings, and that **the competent Court should be left free to consider and make the suitable orders on the merits of the dispute uninfluenced by the observations of this Court.**"*
- **Excerpt from Supreme Court Custody Order Dated May 14, 2015:**
*"In the circumstances, we deem it appropriate to direct the Registry to list the special leave petition on the 2nd July, 2015 for hearing. In the meanwhile, the child will continue in the custody of respondent no.2 father. However, **as and when the petitioner mother returns to India, she is entitled to take the custody of the child** in terms of the impugned order of the High Court **subject to further condition that the mother will surrender her passport to the Registry before taking custody of the child.**"*
- **Compliance Notice to father from Supreme Court Registrar dated May 25, 2015:**
*"Sir, I am directed to inform you that in compliance of the Hon'ble Court's order dated 14.05.2015 passed in the matter above mentioned, Petitioner-Mother namely Ms. Ruchika Abbi along with her Counsel has surrendered her passport to this Registry today i.e. 25.05.2015 in the afternoon. **You are now required to ensure compliance of the Hon'ble Court's order dated 14.05.2015, a copy of the same is enclosed here with regarding custody of the child to the Petitioner-Mother, and submit a compliance report at the earliest.**"*
- **Excerpt from Supreme Court Custody Order Dated Nov 20, 2015:**
"We have heard learned counsel for the parties, petitioner No.1-Ruchika Abbi and petitioner No.2, the child (Roshni Seth) in Chamber. So far as child is concerned, we interacted with her individually,

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and later with petitioner No.1.

Having heard learned counsel for the parties and after interacting with child alone and then in company of petitioner No.1, **we consider it just and proper and in paramount interest of child to pass the following order until further orders:**

- 1) **The custody of child (Roshni Seth) be given to the mother-petitioner No.1 till 7th December, 2015.**
- 2) The child (Roshni Seth) shall attend the School regularly where she is going to School but she will remain in the custody of the mother as directed above.
- 3) **Respondent No.2-father is also allowed to have a visitation right to meet the child at petitioner's residence as per the convenience of all parties on regular intervals, till 7.12.2015.**
- 4) We expect cooperation from both the petitioner and respondent No.2 and also from their family members in this matter so that welfare of child is taken care of in letter and spirit that being the paramount interest in such matters..."

- **Excerpt from Supreme Court Case Disposal Order Dated Dec 9, 2015:**

"...It is not necessary to set out the facts of the case in detail except to state that the dispute which revolves around between the parties (wife-appellant herein and husband-respondent no. 2 herein) is essentially in relation to the custody of their minor daughter-Roshni..."

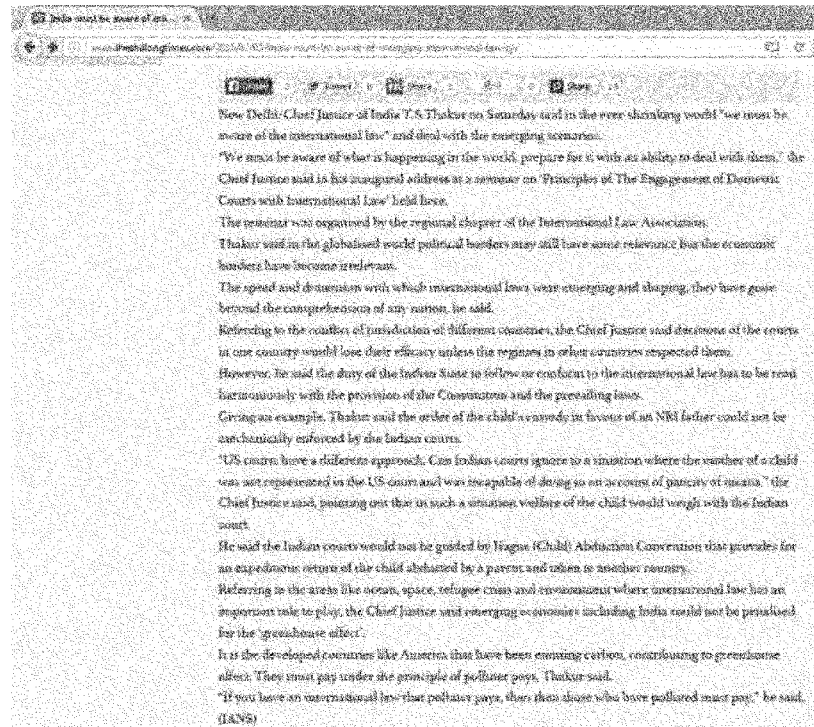
..Having heard the learned counsel for the parties and having interacting with the child, we feel that it would be just and proper to direct the Family court, which has seized of the main custody case (Guardianship case No. 115/2014) to dispose of the pending main case, i.e., Guardianship case No. 115/2014, on merits **preferably within six months** as an outer limit strictly in accordance with law keeping in view the paramount interest and welfare of the child and all relevant factors necessary for deciding the custody of minor child uninfluenced by any of our observations.

..During the pendency of the main custody case, **the temporary custody of the child-Roshni will be with the respondent no. 2 - i.e. husband/father.** The respondent no.2 will drop the child on every Saturday by 6.00 pm. at the petitioner's residence and collect the child by 6.00 pm. on the next day (Sunday).

..We hope, trust and expect from the appellant and respondent no. 2 to cooperate with each other for the sake of their minor child's welfare and taking advantage of temporary custody of the child not to influence her innocent mind by tutoring her and create hatred against others for their personal interest-a fact, which we unfortunately noticed while interacting with the child on two occasions. Indeed, we feel that such attempt on their part and especially, respondent no.2 may do more harm to the child in long run."

Exhibit B
The Shillong Times:

India must be aware of emerging international law: Chief Justice of India, July 3, 2016

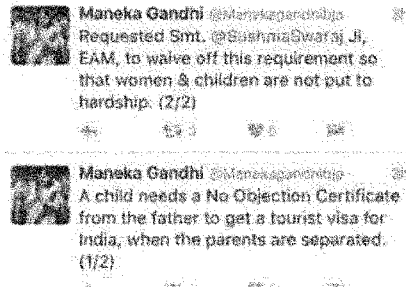


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Exhibit C

India's Minister for Women and Child Development's tweeted a request for policy change to seek waiver for "No Objection Certificate" from fathers who are separated. This policy change poses severe risk for parental child abductions to India.



Series of tweets by India's Minister for Women and Child Development, to develop standard operating procedure to "tackle problems" of "women in distress on account of NRI marriage". The Ministry has not posted any requests for suggestions, and based on earlier tweets seeking waiver for dual parent consent to obtain Indian visa for children, any policy decision on cross-national marital issues could result in more child abductions to India from U.S and other nations.



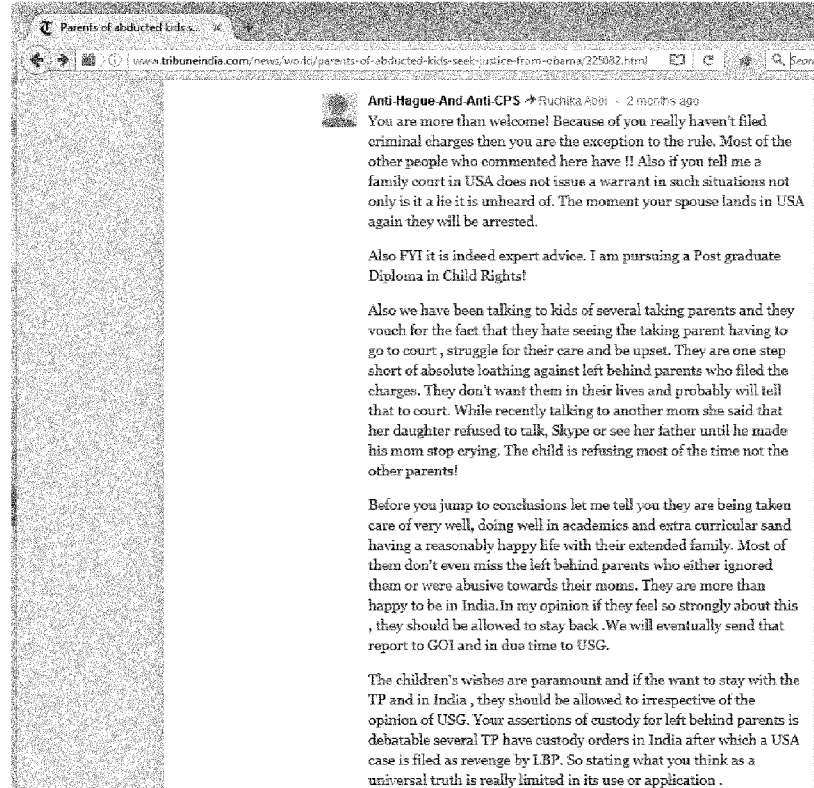
Testimony of Ruchika Abbi for Roshni Seth, July 14, 2016

Exhibit D

The Tribune newspaper:

"Parents of abducted kids seek justice from Obama", April 20, 2016

Comments by abducting parents in India



Anti-Hague-And-Anti-CPS → Ruchika Abbi · 2 months ago

You are more than welcome! Because of you really haven't filed criminal charges then you are the exception to the rule. Most of the other people who commented here have !! Also if you tell me a family court in USA does not issue a warrant in such situations not only is it a lie it is unheard of. The moment your spouse lands in USA again they will be arrested.

Also FYI it is indeed expert advice. I am pursuing a Post graduate Diploma in Child Rights!

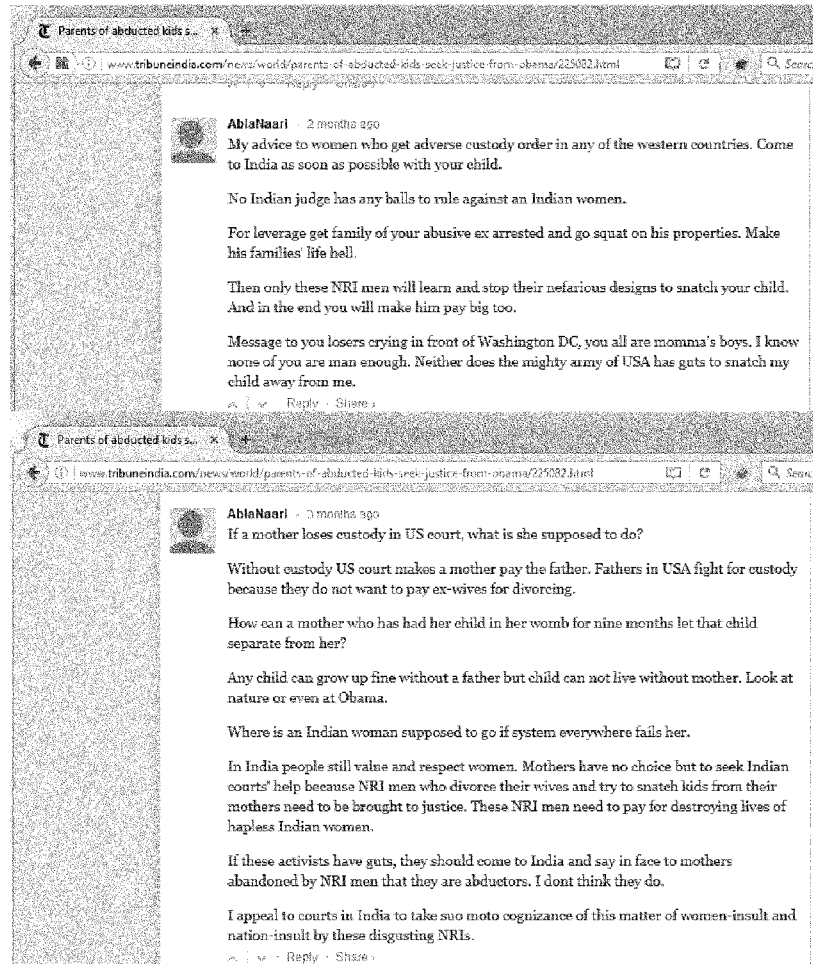
Also we have been talking to kids of several taking parents and they vouch for the fact that they hate seeing the taking parent having to go to court , struggle for their care and be upset. They are one step short of absolute loathing against left behind parents who filed the charges. They don't want them in their lives and probably will tell that to court. While recently talking to another mom she said that her daughter refused to talk, Skype or see her father until he made his mom stop crying. The child is refusing most of the time not the other parents!

Before you jump to conclusions let me tell you they are being taken care of very well, doing well in academics and extra curricular sand having a reasonably happy life with their extended family. Most of them don't even miss the left behind parents who either ignored them or were abusive towards their moms. They are more than happy to be in India. In my opinion if they feel so strongly about this , they should be allowed to stay back. We will eventually send that report to GOI and in due time to USG.

The children's wishes are paramount and if the want to stay with the TP and in India , they should be allowed to irrespective of the opinion of USG. Your assertions of custody for left behind parents is debatable several TP have custody orders in India after which a USA case is filed as revenge by LBP. So stating what you think as a universal truth is really limited in its use or application .

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Mr. SMITH. Thank you so very, very much for your testimony and obviously this subcommittee—this chairman will continue to push. Mr. Cook.

**STATEMENT OF MR. JAMES COOK (FATHER OF CHILDREN
ABDUCTED TO JAPAN)**

Mr. COOK. Good afternoon, Chairman Smith, all subcommittee members and all those affected by the issue of international parental child abduction in attendance today and those watching around the world.

I am very sorry we know each other in this way. I am James Cook and today is the 2-year anniversary of our four children arriving in Japan.

They are two sets of twins. Later this month will be the 1-year anniversary of my Hague application to them to return to Minnesota.

In this time, I have visited our children once and then slowly all contact was unilaterally severed from Japan.

The last contact or reply from our children was late August 2015. I have been constantly involved in my children's lives. Now, they have been made to believe I am dangerous and seek to do them harm. Children, who knew me as the unconditionally loving parent no matter what, have been led to believe I seek to avenge the alienation.

Children who knew me as the parent that hugged them, kissed them on forehead, and in so many ways communicated my unconditional acceptance of them as people have been told to fear me and deny my attempts at access.

I understand their situation and I know the choices they had to make to survive. But the emotional pain still remains. Perhaps the greatest sadness I have is the realization that our children will have long-term issues to resolve as human beings subjected to captivity and denied the fundamental connection to their parent that is necessary for healthy development.

Please note, I will not mention or share our children's names in my testimony to protect their privacy. They are innocent and do not deserve any more trauma from this abduction.

My testimony today will be divided into three sections. First, I will read an open letter to our children because I have been blocked from any access or means of communication with them.

It's my hope that the video of this testimony will be shown or made available to them in Japan because this is the only means I have of reaching them anymore.

Second, I'll provide you a view into the Hague implementation in Japan as I experienced the process. And third, I will offer brief recommendations to the committee.

Hey, guys. This is Papa.

I'm so very sorry for all you've been put through as a result of what has happened. You've had to make choices out of dependency and harmony within Ba-Chan and Ji-Chan's home. I understand those choices and I'm not angry at you or seeking revenge against anyone, as you may have been told.

Every day of your absence starts for me the realization that you are not in our house and you are gone. Nothing has changed in any of your rooms. They remain just as you left them.

The light blue bedroom still has the blue marker on the closet wall and the night stand drawer still smells like Count Chocula that you poured in there for yourself. The only evidence of what you did was the empty plastic cereal bag you left on your floor.

Your closet has all your unopened toys sitting on the shelf and the mixture of socks from which you created your unique pairing each day. I want you to know I did not see you break it. So I agree you did not break it. Also Papa always carries a pencil in his car now. I love your individuality and personality. I want to possess the calm confidence in yourself that you do.

The pink bedroom still has your "Frozen" sticker book and plastic purple unicorn on the night stand. Auntie Laura stayed in your room one night and she had cried because you were gone, but it looked like you were there.

Like me, she expected to see you come into your room at any time, at any moment. Big Bear is still in your closet next to your dress-up clothes and your Barbies are still stashed in various drawers of your dresser.

On my phone I carry the video of you dancing for me in the back hall of our school during the spring music concert. I love your happiness and unbelievable self confidence. I want to be fearless like you.

In the green bedroom both of your beds are just as they were when you went to the airport. On your long dresser still sit your architectural Lego buildings. I've dusted them a few times.

The perfectly drawn sketch of a hand still hangs above the bookshelf that holds all the Doraemon comic books you've read several times.

The baseballs and numerous athletic and musical trophies are just as you left them. Your Pikachu alarm clock still ticks away, waiting to be used to wake you guys.

I see violin sheet music and our piano and I nearly weep sometimes. Thing one—I love how you started playing piano every morning. The dedication and commitment you have always made to being better, smarter and the best you I admire. You will suck the marrow out of life by experiencing all that you can.

I want your discipline and determination. Thing two—I admire your kindness and empathy toward others. I think of you when I need to be my best self and imagine what you would do.

I cried for the first time in a while when I wrote this because my heart aches without you. I went into your closet and I saw multiple bags of clothes packed in haste. I think I know why those were packed and likely the mood under which you were told to pack. I am so sorry you had to experience being complicit in your own abduction.

I told you it was only a vacation. What you experienced told you otherwise. You guys were 11. I am sorry I did not see what you saw. I know you were told not to say anything to me.

I don't know how that affected you or damaged your self but I ache with you in that pain. I want you to know I have never

stopped working for your return and everything I have done was to get you back home no matter what you have been told.

You have been denied a critical relationship at a critical time in your lives. It's only later in life you will understand the lasting impact of losing our connection during this time. I know this and I wish others did.

Do you think about our adventures to AEON from years ago? I know it was only to go eat Pepper Lunch at the food court and play Mario Cart until I ran out of 100 yen coins.

Those were fun adventures. Remember our trip to Tokyo Disneyland 6 years ago and riding the shinkansen? Just the three of us guys eating 550 yen or 150 yen shinkansen ice cream and having fun. You guys were nervous because you weren't sure I really understood Japanese. But as with most things it all turned out for the best.

When I came to Japan to visit in October I remember riding back for Kyoto to Tokyo with you two little guys sitting my lap. As tired as I was and jetlagged, it was the best shinkansen ride I can ever remember. I miss holding you two little guys and attempting to do pushups while you try to ride me like a horse. I miss carrying you on my shoulders and holding your little hands so you wouldn't use my face as a handle.

I will come to pick you up and bring you home very soon. Please be ready and make it easy for everyone by cooperating when I come.

I love you guys. I'll never stop until you are back home with me. I want you back. Love, Papa.

Section two—in July 14, 2014, Hitomi Arimitsu of Nara, Japan—my wife, and our four children arrived in Japan for a 6-week vacation.

Prior to her departure, I drafted a simple agreement between her and I. I indicated my consent for her to travel with our children and a specific return by date of August 29, 2014.

This agreement was drafted with her knowledge, signed by both of us and notarized and was supposed to be part of her travel documents.

Needless to say, she did not return and has been continuously aided and harbored by her parents, Yukinori and Hiroko Arimitsu of Nara, Japan. Mr. Yukinori and Hiroko Arimitsu and his family own Arimitsu Industry Company, Limited of the Higashinari-ku area of Osaka, Japan.

In September, 2014, I clearly stated my plan to Hitomi to bring our children back to U.S. in December 2014. Hitomi refused and ceased communications with me. In October 2014, I visited Tokyo, Japan to visit our children for a 3-day weekend to go to Tokyo Disneyland and Disney Sea. My mother visited everyone in Japan in December 2014 prior to Christmas and she reported back to me that our children were different and seemed negative toward me.

It was deeply upsetting to my mother that Hitomi had exerted significant undue influence over our children and significant parental alienation was obvious.

In January, 2015, I commenced divorce proceedings against Hitomi in Hennepin County court for the sole purpose to force our children's return.

Minnesota has a service first requirement and I followed the Hague process with Japan for service. The result was a 4-month delay of service that my local court used to deny jurisdiction over custody of our children.

Had Hitomi been present in Minnesota the service would have been days, not the 4 months caused by the Japanese central authority.

I immediately sought out other avenues to our children's return with significant assistance and guidance from the Department of State.

I began my Hague application on July 23, 2015. It was received on August 4, 2015 at the Department of State. The application was then forwarded to and received by Japan's central authority, the JCA, on August 7 and accepted officially on August 10, 2015. I had *prima facie* proved my Hague case.

The legal case once started was to take 6 weeks according to Hague guidelines. The legal case started in August 19, 2015, when my legal team filed the return petition to Osaka family court. Two weeks later on September 4, 2015, the first hearing of our case was held and I was present in Osaka family court in Japan for this hearing.

Hitomi was not in attendance and manipulated the court by saying I was dangerous and they should have extra security.

I purposely added 2 extra days over the weekend to allow for meeting our children. Hitomi refused to cooperate with my request and told me my children were afraid of me.

It's odd that the longer our children are away from me the more afraid and distrustful of me they have become. This is *de facto* parental alienation.

Court investigators, or social workers, interviewed our children the following week. In the invitation sent to our children, the investigators explained what was going to occur and provided them significant information in advance.

As a result, our children were very well prepped to answer exactly as they were coached by Hitomi. This included a recollection by our younger children about an event that happened prior to the conception.

The second hearing of her case was held on September 30 to provide a status update for all parties. Neither Hitomi nor I were in attendance. This was the 6 week point the process.

Our third hearing on October 13, a year to the day when I last saw our children in person was the trial hearing in front of the Hague three-judge panel.

I added extra days over the weekend to this trip, again, to allow me time to meet with our children and again I was refused a meeting. I was even refused FaceTime or any type of communication.

Under the Hague Convention, I am guaranteed some amount of access. If Hitomi doesn't want to do it she doesn't and Japan lacks the enforcement powers to make her comply.

The first decision in our case came on October 30, 2015. The Osaka family court determined I had satisfied all Hague criteria for all four children but they only ordered the return of our two youngest children and used the court's discretion to overrule the Hague required return of our older children.

The court deemed our 12-year-old sons to be of sophistication and sound mind to object. I am sure the Solomonesque splitting of the baby made sense to the pragmatically minded court. It appeared our children were little more than property to be divided.

This was the 10th week of the case. The decision of the Osaka family court was appealed to Osaka high court by both Hitomi and myself in the first part of November.

Let me repeat, in the first part of November. With no decision yet from the Osaka high court, on December 24 I filed for mediation to see if there was an alternative path to resolution and Hitomi refused to participate. So any solution via mediation was ended on January 18, 2016. No enforcement requiring her to participate. This marked the 25th week of our case.

On January 28, 2016, Osaka high court rendered their decision in which they affirmed the lower court's decision and additionally ordered my older children, now 13 years old, returned, citing the psychological damage from splitting siblings.

This decision came in the 26th week, ½ year since the first court filing. The Assistant Secretary of State for Consular Affairs Bond was recently quoted in a major Japanese newspaper saying the legal process in Japan takes too long. My case is evidence and I now know my experience thus far was not unusual.

This is not compliant with the Hague guidelines for expidient at all. During this time, my children were being alienated against me with no means of interim access to them. This lack of access is in violation of the Hague and as such Japan, again, is noncompliant.

A week later Hitomi filed an appeal to Japan's Supreme Court and I filed for a warning from Osaka family court to Hitomi to comply with the Hague return order.

This was the first of many steps that must be filed for enforcement of a decision—the first of many steps.

I thought that a justly rendered and affirmed court order was enough to complete my Hague process. I was not even close to the end. Japan's family law system lacks strong enforcement power and contempt can be identified in many cases.

The warning was issued to Hitomi with no result. Hitomi lost her appeal in Japan's Supreme Court later in February. I thought for sure this would be the end and our children would soon be heading back or I was going to pick them up.

Again, not even close. The next enforcement step was filing for indirect enforcement—financial penalty. Hitomi appealed this and eventually lost this appeal too. The impactful portion of this indirect enforcement is the per diem fine due the petitioner, me in this case.

Hitomi was ordered to pay me a per child fine every day until the children are returned to the U.S. Hitomi, of course, is in contempt of this order and refuses to acknowledge or pay the debt that had been accruing since March 21, 2016. Japan even lacks enforcement powers over their own enforcement powers.

The next step to enforcement is direct enforcement. Hitomi had appealed the direct enforcement decision and lost.

I have never heard of an abductor being able to appeal enforcement of a dually rendered court decision. I'm submitting for the written record in my testimony a translation of the Japanese

Hague implementation articles relating to the enforcement and to save time let me quickly summarize or give a quick interpretation of what's allowed. The court bailee can use whatever force is required to enter the house in pursuit of children.

Once in the house, the bailee can restrain or remove any adult persons that are physically capable of restraining the children.

At this point, the bailee's power only extends to requesting the children to voluntarily come with the bailee. Neither the bailee nor I are allowed to touch the children in the act of enforcement.

Imagine this scenario as viewed by a child. Loud knocking at the door and the quick look outside reveals court personnel and possibly law enforcement. Panic ensues in the adults, particularly your mother. The knocking gets louder and the door may have even have been broken down to gain access to the house.

With a broken down door and a screaming hysterical mother, the official-looking person enters the house. Once inside the official or police officer physically removes your mother from holding onto you and she is pulled away.

This person that just tore your mother away from you now asks you if you will come with him to see your father who is waiting outside to take you away. What do you think the child will say? Yes?

If the bailee determines that the children will never agree to come voluntarily then the enforcement attempt is unsuccessful and ended. This has happened in another Hague case.

Yes. All it takes is for children to persist in saying no to foil direct enforcement. I am now 51 weeks into this process and both my attorneys in Japan and the Department of State are telling me to spend the time, emotion, expense, and hope to make this attempt.

Their collective advice in the event of most certain failure is to try again and again and again and again. Why does Japan require such a traumatic event for a child in enforcement?

In our case the Japanese courts have deemed that the children should be returned. A high court order with the Supreme Court declining to hear the case and no further appeals permitted. This flawed enforcement process should not be a reason or a means for Japan to evade its international obligation to comply with the Hague Convention on international child abduction.

Quite simply, this should not prevent the return of our children to their rightful home with their father in the United States. I implore our government to address this issue with the appropriate Japanese authorities without delay, distraction for ambiguous diplomacy.

The final step of my Hague process may be habeas corpus proceeding if direct enforcement fails. This step is not part of Hague convention. It is a patch to fix the known direct enforcement problems systemic in Japan.

The Goldman Act report just released this week addressed the direct enforcement problem and states the non-compliance of Japan on page 32. I followed the process, endured the extraordinary slowness, received favorable court decisions in every instance been without our children and them without me this whole time and then at the end of this I am left to rely upon a highly traumatizing act as my path to returning our children.

As Japan has designed it, I must remove our children under the Hague Convention in full view of their hysterical mother and that being the lasting image in their minds. Why make our children or any child suffer even more for the actions of their parent? This is beyond cruel and inhuman. Hitomi's wealthy parents, Yukinori and Hiroko Arimitsu, have been paying her legal bills and harboring her and our children in contempt of multiple court orders and in violation of international treaties their country ratified and acceded to.

Mr. Yukinori Arimitsu's company, Hiroko Arimitsu, Arimitsu Industry Company, Limited, of the Higashinari-ku area of Osaka, Japan, I have been told has influence within Japan, and I cannot determine the degree to which the company has been complicit in the abduction.

I was told of one special favor gained many years ago by an employee at the direction of Mr. Arimitsu to manipulate official government records to benefit Hitomi by allowing her to remain eligible for government benefits despite being married to a foreigner.

I am concerned the same meddling is going on or is possible to circumvent enforcement. The JCA must not allow this type of cheating to continue if Japan wants to be respected internationally.

Mr. Yukinori Arimitsu, Hitomi Arimitsu are a threat to Japan's integrity internationally.

Section three—my written testimony goes into greater detail but I will mention some concepts to consider. Unlike the U.S., Hague decisions are not public in Japan. So each case has to proceed blind of any precedent unless experienced attorneys are willing to cooperate and receive permission from their clients.

I recommend the Department of State provide a resource that catalogues the successful and unsuccessful individual cases in order to build the case law outside of Japan.

Data privacy concerns can be managed with redaction of sensitive information. Additionally, I recommend a summary of the successful arguments and circumstances be compiled and be made available to left-behind parents in the process. I imagine that the National Center of Missing and Exploited Children could fulfill this role very well if chosen.

Another point—the Goldman Act enumerates powers or actions available for enforcement with the recalcitrant country. I would like to suggest that these powers be made enforceable on a case by case basis instead of a global annual review that we have come to be seen can be held, influenced and manipulated. Resolution of the larger issue will come one victory at a time.

Let's have enforcement and sanctions at the individual case level. This committee and the greater Congress can come together to tighten the vague language in the Goldman Act and remove much of the Department of State's discretion in imposing sanctions.

Allow the Department of State to use their diplomatic efforts to inform and impart legislative decisions instead of allowing diplomacy to mitigate or avoid consequences.

I recommend the chairman order the delivery of the original version of the Goldman Act report that was completed by April 30, 2016 deadline. All edits to the original must be attributed and explained if the released versions differs from the original.

In conclusion, I eagerly want the quickest proper return of our four children by the least traumatic means to their home in Minnesota, U.S., their habitual residence, their legal home state since birth. Then we can rebuild our relationships and resume our lives as a family together.

Thank you, Chairman Smith, for this opportunity today and your continuing efforts to address this form of human rights violation.

Your staff has been very helpful and I want to recognize their efforts publicly. A special level and type of thank you to all the left-behind parents and their aggregated efforts to move the issue to this point. It's on their collective shoulders I stand before you today. I am very sorry we all know each other in this way. To all left-behind parents watching this hearing, every one of our victories leads a path to the recovery of your children. You are not alone.

Thank you.

[The prepared statement of Mr. Cook follows:]

James Cook

COMMITTEE ON FOREIGN AFFAIRS
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

SUBCOMMITTEE HEARING: HOPE DEFERRED: SECURING ENFORCEMENT OF THE GOLDMAN ACT TO RETURN ABDUCTED AMERICAN CHILDREN

07.14.2016 2:15pm 2255 Rayburn Africa, Global Health, Global Human Rights, and International Organizations

Good afternoon Chairman Smith, all subcommittee members, all those affected by the issue of international parental child abduction in attendance today and those watching around the world. I am sorry we know each other in this way.

I am James Cook, and today is the 2-year anniversary of my 4 children arriving in Japan. They are two sets of twins. Later this month will be the 1-year anniversary of my Hague application to return them to Minnesota. In this time, I have visited my children once and then slowly all contact was unilaterally severed from Japan. The last contact or reply from my children was late August 2015. I have been constantly involved in my children's lives and made them fun. Now, they have been made to believe I am dangerous and seek to do them harm. Children who knew me as the unconditionally loving parent, no matter what, have been led to believe I seek to avenge the alienation. Children who knew me as the parent that hugged them, kissed them on the forehead and in so many ways communicated my unconditional acceptance of them as people, have been told to fear me and deny my attempts at access. I understand their situation, and I know the choices they had to make to survive, but the emotional pain still remains. Perhaps the greatest sadness I have is the realization that my children will have long-term issues to resolve as human beings subjected to captivity and denied the fundamental connection to their parent that is necessary for their healthy development. My primary focus has been the complete development of our children. Development that is not possible without the active involvement of both parents. Please note, I will purposely not mention or share our children's names in my testimony to protect their privacy. They are innocent and do not deserve any more pain from this abduction.

My testimony today will be divided into three sections. First, I will read an open letter to our children because I have been blocked from any access or means of communication with them. It is my hope that the video of this testimony will be shown or made available to them in Japan because this is the only means that I have of reaching them anymore. Second, I will provide you a view into the Hague implementation in Japan as I describe my journey through every step in the process. There has been progress to celebrate and there are intractable parts that still remain. Third, I will offer my recommendations to

the subcommittee informed by my experience in the process and 30 years of dealings with Japan.

Section 1.

Hey guys, this is dad or papa. I am so very sorry for all you have been put through as a result of what has happened. You have had to make choices out of dependency and harmony within ba-chan and ji-chan's home. I understand those choices, and I am not angry at you or seeking revenge as you have been told. Every day of your absence starts for me with the realization you are not in our house, and you are gone. Nothing has changed in any of your rooms. They remain just as you left them.

The blue bedroom still has the blue marker on the closet wall, and the nightstand drawer still smells like Count Chocula that you poured in there for yourself. The only evidence of what you did was the empty plastic cereal bag left on your floor. Your closet has all your unopened toys sitting on the shelf and the mixture of socks from which you created your unique pairing each day. I want you to know, I did not see you break it, so I agree you did not break it. Also, papa always carries a pencil in his car now. I love your individuality and personality. I want to possess the calm confidence in yourself that you do.

The pink bedroom still has your Frozen sticker book and plastic purple unicorn on the nightstand. Auntie Laura stayed in your room one night, and she cried because you were gone, but it looked like you weren't. Like me, she expected to see you come into your room at any moment. The big stuffed bear is still in your closet next to your dress up clothes, and your Barbies are still stashed in various drawers of your dresser. On my phone, I carry the video of you dancing for me in the back hall of school during the spring music concert. I love your happiness and unbelievable self-confidence. I want to be fearless like you.

In the green bedroom, both of your beds are just as they were when you went to the airport. On your long dresser still sit your Architecture Lego buildings. I've dusted them a few times. The perfectly drawn sketch of a hand still hangs above the book shelf that holds all the Doraemon comic books you've read numerous times. The baseballs and numerous trophies are just as you left them. Your Pikachu alarm clock still ticks waiting to be used to wake you guys. I see violin sheet music and our piano, and I nearly weep sometimes. Thing 1, I love how you started playing piano every morning. The dedication and commitment you have always made to being better, smarter and the best you I admire. You will suck the marrow out of life by experiencing all that you can. I want your discipline and determination. Thing 2, I admire your kindness and empathy towards others. I think of you when I need to be my best self and imagine what you would do. I cried for the first time in a while when I wrote this.

I went into your closet and I saw multiple bags of clothes packed in haste. I think I know why those were packed and likely the mood under which you were told to pack them. I am so sorry you had to experience being complicit in your own abduction. I told you it was only a vacation, but what you experienced told you otherwise. You guys were eleven. I am sorry I did not see what you saw and I know you were told not to say anything to me. I don't know how that affected you or damaged your self, but I ache with you in that pain.

I want you to know I have never stopped working for your return and everything I've done was to get you back home. You have been denied a critical relationship at a critical time in your lives. It's only later in life you will understand the lasting impact of losing our connection during this time. I know this and I wish others did, too.

Do you think about our adventures to EON from years ago? I know it was only to go eat in the food court (Yay Pepper lunch!) and play Mario Cart until I ran out of 100 yen coins. Those were fun adventures. Remember our trip to Tokyo Disneyland 6 years ago and riding the shinkansen Just the three of us guys eating 150 yen shinkansen ice cream and having fun. You guys were nervous because you weren't sure I really understood Japanese, but as with most things we did, it all worked out. When I came to Japan to visit in October 2014, I remember riding back from Kyoto to Tokyo with you two little guys sitting on my lap. As tired as I was and jet-lagged, it was the best shinkansen ride I can ever remember. I miss holding you two and attempting to do push-ups while you try to ride me like a horse. I miss carrying you on my shoulders and holding your little hands so you wouldn't use my face as a handle.

I will come to pick you up and bring you back home very soon. Please be ready and make it easy for everyone by cooperating when I come. I love you guys, and I will never stop until you are back home with me. I want you back.

Section 2.

On July 14, 2014, Hitomi Arimitsu, of Nara, Japan, my wife, and our four children arrived in Japan for a six-week vacation. Prior to her departure, I drafted a simple agreement between her and I. It indicated my consent for her to travel with our children and a specific return-by date of August 29, 2014. This agreement was drafted with her knowledge, signed by both of us and notarized to provide the greatest amount of legality and legitimacy. Hitomi was to use this document as part of her travel documents, and I understood she did.

In August 2014, we decided to have the children to stay a bit longer in Japan because I was still having difficulty finding employment. The children were enrolled in a private, English-speaking school to educate them as I was concerned about educational neglect issues in Minnesota if I could not prove they were attending school. In September 2014, I contacted Hitomi via email and informed her that I was planning on going to Japan in

December 2014 to pick up our children. Hitomi never agreed and significantly decreased her communication with me from that point. In October 2014, I visited Tokyo, Japan, and arranged to have our children meet me for a 3 day weekend to go to Disneyland and DisneySea. In the previous ten years, we had visited Hitomi's parents, Yukinori and Hiroko Arimitsu, at their home in Nara Japan for several weeks at a time in summer. During our 2010 summer trip, my older sons and I rode the shinkansen bullet train to Tokyo to visit Disneyland and DisneySea. I remember the fun and adventure this was, so I knew this was a great place for our children to enjoy themselves. I often took my children on 'adventures' when we were in Japan. I was known for expanding my children's world and trying to get them to color outside the lines in their own lives.

When it became apparent after my October 2014 visit that Hitomi was not going to cooperate and was beginning to act like an abductor, I sought the advice of legal counsel regarding a means to gaining our children's return. I made direct appeals to her mother Hiroko Arimitsu at her Nara, Japan home to send Hitomi back with our children. No reply from her ever came. My mother visited everyone in December 2014, prior to Christmas, and she reported back to me that our children were different and seemed negative towards me. It was deeply upsetting to my mother that Hitomi had exerted significant undue influence over our children.

In January 2015, I commenced divorce proceedings against Hitomi in Hennepin County court for the sole purpose to force our children's return. I later found out I was acting on flawed and incorrect legal advice. Minnesota is one of the few service-first states, so the court was unwilling to recognize or step in until they had record she had been served. Proper Hague service under Japan's implementation requires all documents to be in both the Petitioner's language and Japanese. Once translated, all documents must be submitted to Japan's Central Authority for service upon Respondent. My divorce documents were sent off for translation and submission to the JCA on January 23, 2015. Hitomi Arimitsu was served in Japan on April 27, 2015 and submitted the Affidavit of Service to Hennepin County court dated May 11, 2015. This four month delay was used to deny jurisdiction over custody in July 2015 by the same Hennepin County Judge who refused to hear an emergency appeal regarding custody in January 2015.

When I was told that Hennepin County would not have jurisdiction over custody in late July 2015, I immediately sought out other avenues to our children's return. A friend in the legal field made me aware of the Hague international child abduction process and that my original attorney should have informed me of this option instead of encouraging divorce.

With significant assistance and guidance from DoS, I began my Hague application on July 23, 2015 and it was received on August 4th, 2015 at DoS. The application was then forwarded to and received by Japan Central Authority (JCA) on August 7, 2015 and accepted officially on August 10, 2015.

The legal case, once started, was to take 6 weeks according to Hague guidelines. The legal case started on August 19, 2015 when my legal team filed the return petition in Osaka Family Court (OFC). Additionally, we filed to prohibit Hitomi from traveling outside of Japan during the course of the case and to force the surrender of the children's passports. Two weeks later, September 2nd, the order preventing travel and surrendering of passports was granted.

On September 4th, 2015, the first hearing of our case was held, and I was present in Osaka Family Court, in Japan, for this hearing. Hitomi Arimitsu was not in attendance, and she had warned the court I was dangerous and unpredictable, so extra security was required as I may try to harm or kill someone. The court thought this was excessive and unwarranted, especially after they met me. I purposely added two extra days over a weekend to allow for meeting our children. Hitomi refused to cooperate with my requests and told me our children were afraid of me. It is odd that the longer our children are away from me the more afraid and distrustful of me they have become.

Court investigators, or social workers, interviewed our children on September 8th at OFC. In the invitation sent to our children, the investigators explained what was going to occur and provided them significant information in advance. As a result, our children were very well prepped to answer exactly as they were coached by Hitomi. An obvious example of this was the clear recollection by our younger children of an incident that occurred prior to their conception. Also, one of the older boys told of an incident of seeing me across the street from their grandparent's house in the dark watching them. The exact same story of seeing someone sitting in the park watching their house was told to me repeatedly by Hitomi over the years together. Hitomi later tried to recant this statement on behalf of our son in a later hearing.

On September 14th, Hitomi Arimitsu appealed the prohibition order, and on October 29th OFC denied her appeal. The second hearing of our case was held on September 30th to provide a status update for all parties. Neither Hitomi nor I were in attendance. This was the six week point in the process.

Our third hearing on October 13th, a year to the day when I last saw our children, was the 'trial' hearing in front of the Hague three judge panel. Again, I added extra days over a weekend to this trip to allow time to meet with our children. Again, I was refused a meeting. I was even refused Facetime or any type of communication. Under the Hague Convention, I am guaranteed some amount of access. As with all matters, including the court, if Hitomi doesn't want to do it, she doesn't.

The first decision in our case came on October 30, 2015. OFC determined I satisfied all Hague tests and ordered the return of only our two 7 year old children and used the court's discretion to overrule the Hague required return of our older children. The court deemed our 12 year old boys to be of sophistication and sound mind to object. I am sure this Solomon-esque splitting of the baby made sense to the pragmatically minded

court. It appeared our children were little more than property to be divided. This was the 10th week of the case.

The decision by OFC was appealed to OHC by both Hitomi Arimitsu and myself in the first part of November. On December 24th, I filed for mediation to see if there was an alternative path to resolution, and Hitomi refused to participate, so any solution via mediation was ended on January 18, 2016.

On January 28, 2016, OHC rendered their decision in which they affirmed the OFC decision and additionally ordered the older children, now 13 years old, returned citing the psychological damage from splitting siblings. This decision came in the 26th week, half a year since the first court filing. Assistant Secretary of State for Consular Affairs Bond was recently quoted in a major Japanese newspaper saying the legal process in Japan takes too long. My case is evidence, and I now know my experience thus far was not unusual. However, this does not follow the Hague guidelines for expediency at all. During this time, my children were being alienated against me with no means of interim access to them.

On February 3rd, Hitomi filed an appeal to Japan's Supreme Court, and on February 5th I filed for a warning from OFC to Hitomi to comply with the Hague return order. This was the first of many steps that must be followed for enforcement of a decision. I foolishly thought that a justly rendered and affirmed court order was enough to complete my Hague process. I was not even close to the end. Japan's family law system lacks strong enforcement powers and contempt can be indefinite in many cases. The warning was issued to Hitomi with no result. Hitomi lost her appeal to Japan's Supreme Court later in February. I thought for sure this would be the end and our children were soon be heading back, or I was to go pick them up. Again, not even close.

The next enforcement step was filing for indirect enforcement—financial penalty. Of course, Hitomi appealed this and eventually lost this appeal, too. The impactful portion of indirect enforcement is the per diem fine due the petitioner (me). In this case, Hitomi was ordered to pay me 20,000 yen per day, roughly \$200.00. That is 5,000 yen per child, for every day until the children are returned to the U.S. Hitomi is of course in contempt of this order and refuses to acknowledge or pay the debt that has been accruing since March 21, 2016.

The next step for enforcement is direct enforcement. This is the step I am currently at and will soon attempt. I want to spend some time explaining this in detail for the committee. Hitomi also appealed the direct enforcement and lost. I had never heard of an abductor being able to appeal enforcement of a duly rendered court decision.

I am submitting for the written record a translation of the Japanese Hague Implementation articles relating to enforcement.

Article 138 An order set forth in Article 134 (1) shall be issued by designating a court execution officer as a person who carries out necessary acts for releasing the child from the care of the obligor and by designating the return implementer.

(Authority of Court Execution Officer)

Article 140 A court execution officer may carry out the following acts, in addition to persuading the obligor, in the residence of the obligor or any other place possessed by the obligor, as necessary acts for releasing the child from the care of the obligor:

(i) To enter the residence of the obligor or any other place possessed by the obligor and to search for the child at such place, in which case, if it is necessary, to take a necessary disposition to open a closed door;

(ii) To have the return implementer meet the child or to have the return implementer meet the obligor;

(iii) To have the return implementer enter the residence of the obligor or any other place possessed by the obligor.

(2) A court execution officer, in any place other than those prescribed in the preceding paragraph, when he/she finds it appropriate while taking into consideration the impact on the physical and psychological conditions of the child, the situation of said place and the surroundings thereof, and any other circumstances, may carry out the acts listed in each of the items of said paragraph, as necessary acts for releasing the child from the care of the obligor, with the consent of the person who possesses said place, in addition to persuading the obligor.

(3) Necessary acts for releasing the child from the care of the obligor under the provisions of the preceding two paragraphs may be carried out only when the child is with the obligor.

(4) A court execution officer, if he/she faces resistance when carrying out necessary acts for releasing the child from the care under the provision of paragraph (1) or (2), may use force or request police assistance in order to eliminate such resistance.

(5) A court execution officer, notwithstanding the provision of the preceding paragraph, shall not use force against the child. Where there is a risk that use of force against persons other than the child would cause physical or psychological harm to the child, the same shall apply to said persons.

(Authority of Return Implementer)

Article 141 A return implementer may carry out necessary acts, such as providing care for the child, in order to return the child to the state of habitual residence.

Let me provide a quick interpretation of the Japanese Implementation articles relating to enforcement: The court bailee enters the house using whatever force is required to enter the house in pursuit of children. Once in the house, the bailee can restrain or remove any ADULT persons that are physically capable of restraining the children. At this point, the bailee's power only extends to requesting the children to voluntarily come

with the bailee. Neither the bailee nor I are allowed to touch the children. I am forbidden any physical contact with my children.

Imagine this scenario as viewed by the child: loud knocking at the door and a quick look outside reveals court personnel and possibly law enforcement. Panic ensues in the adults, particularly your mother. Knocking gets louder and the door may even be broken down to gain access to the children in the house. With a broken-down door and a screaming, hysterical mother the official-looking people enter the house. Once inside, the official or police officer physically removes your mother from holding on to you and she is pulled away. This person that just tore your mother away from you now asks you if you will come with them to see your father who's waiting outside.

What do you think the child will say? Yes??

If the bailee determines that the children will never agree to come voluntarily, then the enforcement attempt is unsuccessful and ended. This has happened in another Hague case. Yes, all it takes is for the children to persist in saying "No" to foil direct enforcement. I'm now 48 weeks into this process and both my attorneys in Japan and DoS are telling me to spend the time, emotion, expense and hope to make this attempt. Their collective advice in the event of most certain failure is to try again and again and again and again.

This is an inappropriate use of asking the children's opinion and assessing their state of mind under duress in a high-conflict international abduction scenario. These are my abducted children who have been wrongfully retained for nearly 2 years and who have had almost no access to me during this time. As minors, they cannot possibly understand the implications of their response. It is entirely implausible that such a statement of minors under duress should result in circumventing Japan's own court orders rendered under the Hague implementation process. In this case, the Japanese courts have deemed that the children should be returned: a High Court order with the Supreme Court declining to hear the case and no further appeals permitted. This flawed enforcement process should not be a reason nor a means for Japan to evade its international obligation to comply with the Hague Convention on international child abduction. Quite simply, this should not prevent the return of my children to their rightful home with their father in the United States. I implore our government to address this issue with the appropriate Japanese authorities without delay or distraction.

The final step of your (my) Hague process may be in a Habeas Corpus proceeding if direct enforcement fails. This step is not part of the Hague Convention. It is a patch that is not in the Japanese implementation to fix the direct enforcement problem. Full responsibility and accountability should be taken by the JCA for the non-compliance of Japan with the Hague Convention if the direct enforcement fails, which is part of the implementation of the Hague Convention in Japan. This accountability should be made with respect to the requirements of the Goldman Act and its compliance report. The report just released July 11 addresses the direct enforcement problem and states the non-compliance of Japan on page 32.

To summarize, I followed the process, endured the extraordinary slowness of this process, received favorable court decisions in every hearing, spent myself into bankruptcy, been without my children this whole time and at the end of this, I am left to rely upon a highly traumatizing act as my path to returning our children. In essence, I

must remove my children under the Hague Convention in full view of their hysterical mother and that being the lasting image in their minds if they agree to return. On the other hand, please consider that if Hitomi, our children's mother, cannot comply with a court order, how can she raise our children responsibly? What larger lessons is she teaching about respect for the law and authority?

Hitomi's wealthy parents, Yukinori and Hiroko Arimitsu, have been paying her legal bills and harboring her and our children in contempt of multiple court orders and in violation of an international treaty their country ratified and acceded to. Mr. Yukinori Arimitsu's company, Arimitsu Industry Co. Ltd of the Higashinari-ku area of Osaka, Japan, has influence within Japan, and I cannot determine the degree to which the company has been complicit in the abduction. I was told of one special favor gained many years ago by an employee at the direction of Mr. Arimitsu to manipulate official governmental records to benefit Hitomi. I am concerned the same meddling is still going on or is possible in our Hague process.

Section 3.

I am inclined to be very critical of how Japan has handled my case, but I understand that this is a fundamental shift from their domestic family law model that awards only sole custody and overwhelmingly to abductors. There are many positive elements to Hague implementation in Japan, yet much work to be done.

The good news is that orders for return are becoming more common and with them subsequent cases have a path to return. A concern is the privacy of these decisions within Japan. Unlike the U.S., these decisions are not public in Japan, so each case has to proceed blind of any precedent unless experienced attorneys are willing to cooperate AND receive permission from their clients.

- I recommend DoS provide a resource that catalogs successful and unsuccessful individual cases in order to build the case law outside of Japan. Data Privacy concerns can be managed with redaction of sensitive information.
- Additionally, I recommend a summary of successful arguments and circumstances be compiled and made available to LBP's in the process. I imagine NCMEC could fulfill this role very well, if chosen.

I know very well the extent and limitations of DoS's support in these matters.

More recommendations to this committee:

The Goldman Act enumerates powers or actions available for enforcement of a recalcitrant country. I would like to suggest that these powers be made enforceable on a case-by-case basis, instead of a global, annual review. Additionally, these consequences would have very short, unalterable deadlines of compliance.

I will illustrate what I have in mind using Japan as the recalcitrant country.

- The Hague process shall not take more than 10 weeks for first decision. In the event of appeal, nor more than an additional 4 weeks. Failure to comply with this timeline will immediately result in reimbursement from Japan to LBP of all costs associated with this matter to this point. Japan will then pay for all subsequent costs incurred by LBP until conclusion or return of children, if so ordered.
- Compliance with return orders is the ultimate responsibility of Japan, not LBP. The TP will be given 30 days to voluntarily comply with return order. In the event that 30 days lapses and no return has occurred, Japan will be given an additional 30 days to enforce compliance with return. In the event that lapses, Japan implicitly consents to U.S. using all necessary means to bring about the return of abducted children, or U.S. citizens now held hostage in a foreign land, including use of military personnel and physical force against all resistance to an attempted enforcement. This level of enforcement must be at the discretion of LBP, not DoS.
- Japan additionally agrees to hold harmless LBP in the event local laws, norms or rights are violated in the execution of this ultimate enforcement. Specifically, an abductor at this stage gives implied consent to waive any subsequent legal proceedings in either country that may result from this ultimate enforcement.
- In the event that TP causes harm or death to children, LBP receives the immediate authority to seizure of assets possessed by individuals found to be harboring or financially assisting TP.
- Legislate these terms into the Goldman Act compliance and remove DoS discretion to enforce.

I understand that this may appear extreme and impractical in the context of current diplomacy. In my 30 years of experience with Japan, I have learned that any ambiguities will be used to avoid compliance or cooperation. It is my recommendation that immediate and unambiguous actions be known in the event of contempt or non-compliance with the Hague Convention. Currently, there are no specific consequences in place to guarantee enforcement of individual cases.

Resolution of the larger issue will come one victory at a time. Let's have enforcement and sanctions at the individual case level.

I recommend the Chairman order the delivery of the original version of the Goldman Act report that was completed by April 30, 2016 deadline. My contact at DoS told me the report was completed and submitted on time. In the interim, the original content has had ample time to be altered and manipulated, as was true with the first Goldman Act report that had any non-compliance language regarding Japan removed. Additionally, all edits to the original must be attributed and explained if the released version differs from the original.

I eagerly want the quickest proper return of our four children by the least traumatic means to their home in Minnesota, USA their habitual residence or home state since birth. Then, we can rebuild our relationships and resume our lives as a family together.

Thank you Chairman Smith for this opportunity today and your continuing efforts to address this form of human rights violation. Your staff has been very helpful, and I want to recognize their efforts publically. A special level and type of thank you to all the LBPs and their aggregated efforts to move the issue to this point. I am very sorry we all know each other in this way. To all LBPs watching this hearing, every one of our victories leads a path to the recovery of your children. You are not alone and we all want to help, and you can help us by sharing your experience to build case law and influence for this issue. Thank you.

Mr. SMITH. Mr. Cook, thank you very, very much and I hope and pray that all of your children of all the left-behind parents are returned as quickly as possible and that someday they see not just what you did here and the love that you've exhibited for your children, all of you, and the others in the audience and others who are not here but all of the efforts.

If ever there was a Herculean effort I have seen it time and time again from one parent after another who just have left no stone unturned in trying to bring their children home.

So again, I want to thank you and for your very specific recommendations. They are excellent.

Ms. Barbirou.

STATEMENT OF MS. EDEANNA BARBIROU (MOTHER OF CHILD ABDUCTED TO TUNISIA)

Ms. BARBIROU. Chairman Smith, thank you for committing your time today to address this issue of international parental child abduction, which I will continue to refer to as IPCA, for brevity, and the implementation of the Goldman Act.

I would also like to extend my gratitude to Ms. Christensen, who testified earlier today. She also mentioned a case she wouldn't name by name but that a lot of activity had been occurring a day after one parent had called and said activity was happening.

That was my case. So I'd like to extend gratitude to her for knowing what was happening and explaining that. And also to my fellow parents who sit with me today. I have held back so much emotion on my own and for your own stories and your own children you just—you have touched my heart in so many ways, even knowing that I can clearly identify with everything you've been going through. So thank you for your testimony.

And I offer that mine won't differ very much because all of our stories have so many common elements. So with that, as many of you know the enactment of this legislation, the Goldman Act, is of vital importance to the thousands of children who become victims of IPCA in our country each year.

For many parents seeking the return of their illegally kidnapped children abroad, the Goldman Act is a source of hope in the otherwise dim realities that our lives become after our children are snatched from our lives, and theirs, exposed to the horrors of a life on the run, often aided by the governments of the foreign lands to which they are kidnapped.

It is a source of hope that finally the right tools will be utilized to secure justice for our innocent children, ensuring the full force of the American Government to secure their rights of protection as citizens to return home where they belong.

That is the power, purpose and hope embodied in the Goldman Act that has brought us here today. I am honored to have been invited to testify today after having sat before this very committee for the same purpose just 1 year ago.

I'm also terribly saddened, personally that I return and that my son, Eslam, remains illegally detained in Tunisia. I am also saddened for the thousands of children who remain abducted or detained as hostages in foreign lands around the globe.

Exactly 4 years, 8 months and 3 days ago, my children, Eslam and Zainab Chebbi, were illegally abducted to Tunisia by their father, a Tunisian native. At the time of their kidnaping in 2011 I had full custody of both children and retained a judicial order preventing either of us from traveling outside of the United States with either child.

In January 2012 I boarded a plane to Tunisia to be close to my children while I pursued the application of my U.S. divorce and custody documents in order to bring them home.

At the time, I was promised by my then Tunisian counsel that I would be in Tunis for a total of 3 weeks and could return with both children to the United States in that time. It was 10 months before I could obtain a first ruling through the Tunisian judiciary upholding my rights of custody of Eslam and Zainab here in the United States.

A few months later in May 2013 a Tunisian appellate court ruled for enforcement of Eslam and Zainab's return to me in the United States.

By August of that year, I was assured of pending enforcement and a return home with both children. In the face of what had by this time accumulated into extensive interventions by the Department of State, the Department of Justice and multiple Members of Congress, I chose to believe.

Based on this belief, I decided to honor by daughter Zainab's wishes not to return to her father following a weekend visit and to rely on the legal process for enforcement for our reunification with Eslam.

I made that decision in September 2013 and Eslam has remained isolated from his sister and I ever since. Due to intentional interference by the Tunisian Government to prevent enforcement of its own court's judicial order, Eslam remains illegally detained as we continue to seek enforcement of that 2013 appellate court judgment upheld by the Supreme Court of Tunisia in 2014, today.

Due to illegal extrajudicial interference, Zainab and I last saw and hugged Eslam exactly 2 years and 15 days ago. She and I returned to the United States without Eslam in August 2014.

Within the past 2 years, we received a second Tunisian primary judgment granting custody of Eslam and Zainab to me in the United States and a second appellate court ruling for enforcement of Eslam's return home to our family in the United States. These are all Tunisian judgments. There are five now.

In March of this year, the Tunisian Ministry of Justice informed the U.S. Consulate and Embassy staff that this judgement would be issued and enforced leading to Eslam's return home to us in the United States by the end of May.

Clearly, that timeframe has passed. The entirety of these 4 years, 8 months and 3 days since Eslam and Zainab were kidnapped from our home, the State Department, the FBI and numerous esteemed Members of Congress have mounted incredible diplomatic and political efforts in support of our family with the Tunisian Government for its adherence to a rule of law and compliance with its new enacted constitution for enforcement of its court's judicial rulings and Eslam's return home.

My family is ever grateful for these necessary and powerful steps. Yet while we applaud these great efforts we continue to accrue judicial order after judicial order. The Tunisian Government continues to provide baseless assurances and Eslam remains illegally detained in Tunisia.

I wish to step away from our family circumstances for a moment and return to the Goldman Act and address you as an advocate for our innocent children, the true victims of this crime.

According to the FBI, more than six children are reported as abducted by a parent in this country every day. Previous State Department statistics indicate that more than half of these children are kidnapped to foreign lands.

In 2014, Congress unanimously voted and the President signed into law this powerful legislation that protects the rights of our abducted American children by ensuring that the strongest penalties will be rendered in the face of their prevented return to their homes here in the United States.

Clearly, the U.S. Government fully believed that the powers embodied by the Goldman Act were varied, necessary, and sufficient enough to secure the immediate return of the thousands of American children victimized by IPCA each year. Yet, to this day, the Goldman Act has only been enforced to the least extent possible and mostly in demand and review of annual compliance reports.

In turning to the 2015 compliance report, I would like to applaud the great strides that have been taken to present a clearer and more honest picture of what is occurring with our abducted children abroad.

In it, we have a stronger glimpse not only of what actions have been taken in each country where American children have been kidnapped, but also of the recommended steps toward improved resolution of abduction cases in the future.

Sadly, not only was this report delivered late but it also leaves the same alarming concerns regarding the enactment of this law that I addressed before this subcommittee just 1 year ago.

After reviewing the 2015 report, I have no clearer understanding of how many children have been kidnapped internationally by a parent from the United States and whether there has been an increase, decrease or no change in the incidence of this crime.

Simply providing an accounting of cases without identifying a total number of children affected does not bring us any closer to an understanding of the breadth of this crime on the American public.

By my count, it takes an average of 5 years to secure the return of a child who has been abducted by a parent internationally, if a return ever occurs.

Previous State Department statistics indicate that only 18 percent of IPCA cases result in a return. Considering that the average age of abduction is between 6 months to 6 years, we must understand the devastating reality that for those lucky enough to return home they will have spent half of their lives as captives on the run.

As Ms. Abbi's testimony exemplified, having every available statistic about the number of children impacted by this vicious crime is imperative to every prevention and return effort embodied in this act.

Second, not once did any of the descriptions of actions taken with any of the cited countries or the recommendations for future action incorporate any of the prescribed options three through eight as required to be taken with respect to noncompliant countries per Section 202(d) of the Goldman Act. Here forward, I'm going to refer to these as the 202(d) actions for brevity.

In fact, I have not witnessed one instance where any agency within our Government has utilized the authorities of actions granted through the Goldman Act to implement any of the 202(d) actions to be taken with respect to noncompliant countries.

Respectfully, our children's lives do not rest on the actions of one governmental department but on the collective action and escalating action of all government agencies wielding both their combined and independent powers.

There has to come a point where every representative of the U.S. Government becomes accountable for the implementation of 202(d) actions to secure the immediate return of abducted American children.

As Dr. Brann has already stated, Sean Goldman himself was not reunited with his father on U.S. soil based on the actions of any one agency within our Government. It took coordinated interventions across multiple agencies and congressional action to prevent a financial exchange with Brazil to secure his return home.

It is my understanding that the lessons learned from the Goldman case were embodied in this act with the implicit intention of securing immediate returns for other abducted children abroad, not as an opportunity to reengage in or intensify long-term diplomatic efforts.

Given the Goldman example and the authorities granted under this law, I and thousands of other seeking parents rejoiced at the hope that enforcement of the Goldman Act would result in the immediate return of our illegally detained and abducted children.

Sadly, today, you can stare but I stare at times—we had a photo of my son here when he was 5—thank you so much. Yes. So when I stare at my 5-year-old son, Eslam, and wonder—I wonder how I could look him in the eye when last we embraced which was 2 years and 15 days ago and explain that the Government of the United States will enact a law granting authority to publicly condemn Tunisia for failing to uphold its new Constitution and rule of law, to delay or cancel any of the two official visits that Tunisian leadership has enjoyed at the White House since your abduction or to withdraw, limit or suspend any of the billions of security and development assistance paid for in U.S. tax dollars to the Tunisian Government, but that no one will act upon it.

I wonder if any of us could tell our children with a straight face that we are fully aware of the psychological, emotional and maybe even physical abuse that they are likely to incur as a result of being parentally abducted but that politics and diplomacy take precedence.

I wonder how Stan Hunkovic, father of Gabriel and Anastasia who were abducted to Trinidad and Tobago by their mother in 2010, could look his children in the eye when last he embraced 4 years, 7 months and 16 days ago and explain that the United

States could take strong immediate action that could secure their return home but simply won't.

Chairman Smith, esteemed members of the subcommittee and guests, what I need, what Eslam needs, what Gabriel and Anastasia need, what all of our children kidnapped abroad need is every representative of our Government to take every opportunity as it arises to put our children first.

We need every 202(d) action authorized by the Goldman Act, most specifically actions three through eight, to be enforced at every opportunity whether within a committee of Congress, through the Federal budget with respect to foreign aid distributions to countries cited as persistently failing to return abducted children home, through a policy of consistent issuance of extradition warrants in all IPCA cases and persistent pursuit of their enforcement or by the refusal of official state visits and the suspension or withholding of development security or any other form of foreign assistance.

The opportunities to secure our children's immediate return to their families in the United States are limitless. We and our abducted children care not from where within our Government action is initiated.

We care only about the result and our children's return home. What I need from my Government to secure Eslam's return home is the immediate and uninhibited enforcement of 202(d) actions three through seven with respect to Tunisia, specifically a public condemnation and the suspension of all foreign aid until Eslam is returned to our family in the United States.

I end my testimony with a reiteration of my statements before this subcommittee 1 year ago. To be clear, the Goldman Act as it is written is a fair and powerful law that includes strong remedies which, if applied, will result in the return of our illegally detained abducted children abroad.

It is my firm belief that with the application of any of 202(d) actions four through seven, Eslam Chebbi and Gabriel and Anastasia Hunkovic will be returned to their homes in the U.S. with immediacy. Diplomacy and politics have a place and purpose.

But when a country persistently fails to return illegally abducted American children home swift and immediate action must be taken by all. As Secretary Kerry proclaimed, there can be no safe haven for abductors and all of the tools available must be used to help resolve cases of IPCA.

Thank you for your time and consideration and for the honor of testifying before you today.

[The prepared statement of Ms. Barbirou follows:]

Édeanna M. Barbirou
Founder and Executive Director, Return US Home, Inc.

For the United States House of Representatives Committee on Foreign Affairs
Subcommittee Hearing: Hope Deferred: Securing Enforcement of the Goldman Act to Return
Abducted American Children

July 14, 2016

Chairman Smith, Ranking Member Bass, and other members of the Committee. Thank you for committing your time today to address this issue of International Parental Child Abduction (IPCA) and the implementation of the Goldman Act.

As many of you know, the enactment of this legislation is of vital importance to the thousands of children who become victims of IPCA in our country each year. For many parents seeking the return of their illegally kidnapped children abroad, the Goldman Act is a source of hope in the otherwise dim realities that our lives become after our children are snatched from our lives, and theirs, exposed to the horrors of a life on the run, often aided by the governments of the foreign lands to which they are kidnapped. It is a source of hope that finally the right tools will be utilized to secure justice for our innocent children, ensuring the full force of the American government to secure their rights of protection as citizens, and to return home where they belong. That is the power, purpose and hope embodied in the Goldman Act that has brought us here today.

I am honored to have been invited to testify today, after having sat before this very committee, for the same purpose, just one year ago. I am also terribly saddened, personally for my own son, Eslam, who remains illegally detained in Tunisia¹, and for the thousands of children who remain abducted or detained, as hostages, in foreign lands around the globe.

Exactly 4 years, 8 months and 3 days ago, my children, Eslam and Zainab Chebbi, were illegally abducted to Tunisia by their father, a Tunisian native. At the time of their kidnapping, I had full custody of the children, and retained a judicial order preventing either of us from traveling outside of the United States with either child.

In January of 2012, I boarded a plane to Tunisia to be close to my children while I pursued the application of my U.S. divorce and custody documents in order to bring them home. At the time, I was promised by my then Tunisian counsel that I would be in Tunis for a total of 3 weeks, and could return with both children to the United States in that time.

It wasn't until October of 2012 that I obtained a first ruling through the Tunisian judiciary upholding my rights of custody of Eslam and Zainab, here in the United States.

In May of 2013 a Tunisian Appellate court ruled for enforcement of Eslam and Zainab's return to me in the United States.

Having chosen to believe that, in the face of extensive interventions from the Department of State, the Department of Justice and by multiple members of Congress, Eslam would soon be returned to us, I decided to honor Zainab's wishes not to return to her father following a weekend visit, and to rely on the legal process for enforcement for our reunification with Eslam. I made that decision in September of 2013, and Eslam has remained isolated from his sister and I ever since.

Due to interference by the Tunisian government to prevent enforcement of its own court's judicial order, Eslam remains illegally detained as we continue to seek enforcement of that Appellate court judgment, today.

In March of 2014, the Supreme Court of Tunisia upheld the Appellate court, also demanding enforcement of Eslam and Zainab's return to me in the United States.

Due to illegal extrajudicial interference, Zainab and I last saw and hugged Eslam exactly 2 years and 15 days ago.

Zainab and I returned to the United States - without Eslam - in August 2014.

Within the past 2 years we received a second Tunisian primary judgement granting custody of Eslam and Zainab to me, in the United States, and a second Appellate Court ruling for enforcement of Eslam's return home to our family in the United States.

In March of this year, the Tunisian Ministry of Justice informed the U.S. consulate and ambassadorial staff that a judgment would be issued and enforced, leading to Eslam's return home to us, in the United States, by the end of May. Clearly that timeframe has passed.

Despite all of this, Eslam remains illegally detained by the Tunisian government today.

In the entirety of these 4 years, 8 months, and 3 days since Eslam and Zainab were kidnapped from their home in America, the Department of State, the FBI, and numerous esteemed members of Congress have mounted incredible political and diplomatic efforts in support of our family with the Tunisian government for its adherence to a rule-of-law, and compliance with its newly enacted constitution, for enforcement of its courts' judicial rulings and Eslam's return home. My family is ever grateful for these necessary and powerful steps. Yet, while we applaud these great efforts, we continue to accrue judicial order after judicial order, the Tunisian government continues to provide baseless assurances, and Eslam remains illegally detained in Tunisia.

I wish to step away from our family's circumstances for a moment, return to the Goldman Act, and address you as an advocate for our innocent children - the true victims of this crime. According to the FBI, more than 6 children are reported as abducted by a parent in this country - Every Day. Previous State Department statistics indicate that more than half of these children are kidnapped to foreign lands. In 2014 Congress unanimously voted, and the President signed into law, this powerful legislation that protects the rights of our abducted American children by ensuring that the strongest penalties will be rendered in the face of their prevented return to their homes, here in the United States.

Clearly, the U.S. government fully believed that the powers embodied by the Goldman Act were varied, necessary, and sufficient enough to secure the immediate return of the thousands of American children victimized by IPCA each year. Yet, to this day, the Goldman Act has only been enforced to the least extent possible, and mostly in demand, and review of, annual reports.

In turning to this year's report, as demanded by the Act, I would like to applaud the great strides that have been taken to present a clearer and honest picture of what is occurring with our abducted children abroad. In it, we have a stronger glimpse, not only of what actions have been taken in each country where American children have been kidnapped by another parent, but also of the recommended steps toward improved resolution of abduction cases in the future.

Sadly, not only was this report delivered late, but it also leaves the same alarming concerns regarding the enactment of this law that I addressed before this committee just one year ago. After reviewing this year's report I have no clearer understanding of how many children have been kidnapped internationally by a parent from the United States and whether there has been an increase, decrease, or no change in the incidence of this crime. Simply providing an accounting of cases, without identifying a total number of children affected, does not bring us any closer to an understanding of the breadth of this crime on the American public.

Second, not once did any of the descriptions of actions taken with any of the cited countries, or the recommendations for future action, incorporate any of the prescribed options 3-8 as required to be taken with respect to noncompliant countries per Section 202d of the Goldman Act.

In fact, I have not witnessed one instance where any agency within our government has utilized the authority of actions granted through the Goldman Act to implement any of the prescribed actions to be taken with respect to noncompliant countries per Section 202d of the Goldman Act.

Respectfully, our children's lives do not rest on the actions of one governmental department, but on the collective and escalating actions of all government agencies, yielding both their combined and independent powers.

There has to come a point where *every* representative of the U.S. government becomes accountable for the utilization of the tools prescribed in section 202d to secure the protection of innocent American children kidnapped abroad and for their immediate return home. Sean Goldman, himself, was not reunited with his father on U.S. soil based on the actions of any one agency within our government. It took coordinated interventions across multiple agencies, and congressional action to prevent a financial exchange with Brazil, to secure his return home. It is my understanding that the lessons learned from the Goldman case were embodied in this Act with the implicit intention of securing immediate returns for other abducted children abroad - not as an opportunity to re-engage in, or intensify, long-term diplomatic efforts.

Given the Goldman example, and the authorities granted under this law, I, and thousands of other seeking parents, rejoiced at the hope that enforcement of the Goldman Act would result in the immediate return of our illegally detained and abducted children. Sadly, today, I stare at the photo of my then 5-year-old Eslam and wonder how I could look him in the eye when last we embraced some two years and 15 days ago and explain: that the government of the United States will enact a law granting authority to publicly condemn Tunisia for failing to uphold its new Constitution and rule-of-law, for harboring a criminal, and aiding in your continued kidnapping and illegal detainment; to delay or cancel any of the two official visits that Tunisian leadership has enjoyed at the White House since your abduction; or, to withdraw, limit or suspend any of the Billions of security and development assistance, paid for in U.S. tax dollars, to the Tunisian government - but that no one will act upon it. I wonder how Gabriel and Anastasia's father could look them in the eye when last they embraced 4 years, 7 months and 16 days ago and explain that, the United States could take strong, immediate action to secure their return home, but simply won't.

I wonder if any of us could you tell our children, with a straight face, that we are fully aware of the psychological, emotional and maybe even physical abuse that they are likely to incur as a result of being parentally abducted, but that politics and diplomacy take precedence?

Chairman Smith, esteemed members of this committee, and guests, what I need, what Eslam needs, what Gabriel and Anastasia need, what ALL of our children kidnapped abroad, victimized by this heinous crime need, is every representative of our government to take every opportunity as it arises to put our children first. We need every prescribed action embodied in section 202d of the Goldman Act, most specifically actions 3-8, to be enforced at every opportunity - whether within a committee of Congress; through the Federal budget with respect to foreign aid distributions to countries cited as persistently failing to return abducted children home; through a policy of consistent issuance of extradition warrants in all IPCA cases and persistent pursuit of their enforcement; or by the refusal of official state visits and the suspension or withholding of

development, security, or any other form of Foreign Assistance. The opportunities to secure our children's immediate return to their families in the United States are limitless.

We parents, and our abducted children, care not from where within our government action is initiated - we care only about the result in our children's return home. What I need from my government to secure Eslam's return home is the immediate and uninhibited enforcement of any or all of actions 4-7 as defined in section 202d of the Goldman Act with respect to Tunisia

What Gabriel and Anastasia need is the immediate and uninhibited enforcement of the prescribed action 8 as defined in section 202d of the Goldman Act with respect to Trinidad and Tobago.

I end my testimony with a reiteration of my statements before this committee one year ago: To be clear, the Goldman Act, as it is written, is a fair and powerful law that includes strong remedies, which, if applied, will result in the return of our illegally detained, abducted children abroad. It is my firm belief that, with the application of any of actions 4-8 as defined in Sec. 202(d) of the Act, Eslam Chebbi, and Gabriel and Anastasia Hunkovic will be returned to their homes in the U.S. with immediacy. Diplomacy and politics have a place and purpose, but when a country persistently fails to return illegally abducted American children home, swift and immediate action must be taken by all. As Secretary Kerry proclaimed: there can be no safe haven for abductors and all of the tools available must be used to help resolve cases of IPCA.

Thank you for your time and consideration and for the honor of testifying before you today.

¹ According to the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence. Also, the Working Group on Arbitrary Detention considered as arbitrary those deprivations of liberty which for one reason or another are contrary to relevant international provisions laid down in the Universal Declaration of Human Rights or in the relevant international instruments ratified by States according to the Group, deprivation of liberty is arbitrary when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty or when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights. While our abducted children could not, as minors, it is clearly impossible for them to invoke any legal basis justifying the deprivation of liberty. Additionally, the case of Eslam Chebbi deprives him of the exercise of the rights and freedoms guaranteed under articles 7, 10, and 13 of the Universal Declaration of Human Rights and Articles 12, 23, 24 and 26 of the International Covenant on Civil and Political Rights.

Mr. SMITH. Ms. Barbirou, thank you very much for your testimony. Like the others that preceded you, it is moving. Welcome back. But I wish you weren't here, frankly, except perhaps talking about a success which we've had in very, very few instances. So thank you again for your very candid and strong recommendations as well.

Let me just say, and I'll throw it out for any comments you might want to make, a few things. Ms. Abbi, you talked about why is the United States so powerless. I have asked myself that question.

I authored the Goldman Act. It took 5 years to get passed. Ran into all kinds of obstacles, executive branch as well as legislative branch, which to this day I find discouraging but motivating simultaneously because you can't accept no for an answer in this job.

You talked, Dr. Brann, about how Brazil has not responded to demarches. Last year's report—because there is an action report as to what 90 days after the issuance of the report that has been now sent to Congress, which would take us to early October 90 days or through any time between that 90-day period actions by the executive branch can be promulgated.

And frankly, last year I was gravely disappointed in both the report and the actions. I said so. I wasn't the only one that said so very clearly. You know, a demarche is a first step but a very mild one. You then need the Goldman Act to make demarches in the past. The other sanctions that are prescribed in this, actions by the Secretary of State, are very real and powerful if they're used. If they're not used, as I said to Ms. Christensen, they become toothless.

The countries quickly look at that and say oh, that's just something that's on a shelf somewhere—they don't mean it—it's just an exercise in duplication or the articulation of something that they have no intent of enforcing.

So I think this year will be the test because the report has been improved. Not there yet, frankly, but it is improved. I wondered and I asked Ms. Christensen earlier, you might have noted, about these resolved cases. We have no idea what that's all about.

There's no breakout as to was it aging out, what was the cause of these cases dropped off. That's not a real resolution. Return of child is the resolution that we are indeed looking for even though there are some other criteria prescribed in the law for what that means.

I thought, Mr. Cook, you made so many very—all of you did—so many wonderful recommendations and observations and the idea of summary of successful tactics, for example, when the cauldron of having your child or children abducted is compounded by what do we do next, well, there is a series of best practices, effective strategies and the more that is shared the better and certainly the parents should be first to get that. I thought that, among many other ideas that you made, were excellent.

And then Ms. Barbirou, the idea of full force—full force of Goldman, full force. These sanctions are very real and when they start getting meted out I absolutely guarantee countries will take notice if they are, again, enforced to the least extent possible, as you just testified. That means "hit me again—it doesn't hurt." The countries

will not take us seriously and therefore they will not take your legitimate concerns and return of your children seriously.

So it's great when you're dealing with an interlocutor or a country that really cares and many of the central authorities do, I have found. But when it gets to another level of government and even when you go to court, one of the biggest Achilles' heel in all of this, as you all have noted, is the enforcement and as noted by the report. You know, Japan's enforcement is tragically flawed. It just doesn't work. I remember when David Goldman got his son back.

We were in the consulate in Rio de Janeiro and it was a terrible circus that was carried on by the other parties, walking him through the streets, and I was standing right next to him when he burst out in tears and said, "Look what they're doing to my son," similar what was said earlier about, you know, the scenario of breaking down the door or something. Very benign methodology can be employed to help bring this all about in a way that does not further traumatize a child or children.

Any comments you might want to make? I plan on having another hearing—hearings, and I'm never going to stop as long as God gives me breath, but hearings on implementation of this.

I do hope and I thank our friends from the State Department for staying here and hearing all of you. That is wonderful. I appreciate that. I know you know how important it is that you hear these cases and take it to heart.

But Japan needs to really be on the list. I don't know how they didn't qualify. Everything but yet a pattern of noncompliance. It's just inexplicable, in all candor.

But so the idea of sanctions, if any of you want to weigh in on that. You already did, Ms. Barbirou. If you want to do it again that would be appreciated. Using all the tools prescribed by Goldman, and then the issue that I asked repeatedly, Ms. Christensen—I've been asking it. But even before the Goldman Act was enacted and that is the importance of MOUs. If they're entered into in good faith and robustly carried out, especially by our side, they'll work. Any treaty—any cooperative agreement only works if at least one side is pushing hard. The other side will take note, particularly when there's an array of sanctions hanging over them like a sword of Damocles.

So these MOUs are essential, and when I was in Japan, for example, I talked to our Embassy people there. They said the left-behind parents—the Hague folks are, now we know, are having trouble who are under the rubric of the Hague but those before the 40-odd cases—I mentioned a few before—I just can't even begin to fathom the sorrow and pain you all experienced.

So I think the MOUs—because we don't want *deja vu* happening all over again, to quote Yogi Berra, where India then agrees to the Hague and then it may be just as ineffectively implemented as Japan is doing right now, again, with enforcement being the weakest link and then all those who are grandfathered out from day of ratification. There has to be a simultaneous pursuit of that and whoever the next President is I can guarantee I will be at their door—I won't be the only one—saying that we got to make Goldman work.

MOUs need to be promulgated and sanction. If you don't sanction, if you're acting or have people hearing your pleas that are truly people—men and women of good will maybe you'll get somewhere. But nothing sharp. It's all of our civil rights laws always had the catch of Federal funds being proscribed whether it was women in sports, the Title IX, the Title VII—all these civil rights laws didn't count on good will, not one of them.

The Trafficking Victims Protection Act, which I also wrote, has strong, strong implementation factors to it in terms of not just naming and shaming. It is naming, calling out, and then sanctioning if the country is not doing what they ought to be doing.

So if you want to make any final comments. All of your statements, because I know some of you, I've noticed, jumped through—will be made a part of the record in their totality.

I'm planning, hopefully, even if we're not in session, writing a provision for it. October 9th would be the date, 90 days later pursuant to Goldman, that action has to be taken. Not later than is the way the law reads, but anytime before that. September 15th, whatever day of the choosing, Secretary of State Kerry, the administration, can say this is what we're doing to Brazil, this is what we're going to impose on India. Japan—again, they have not made this naming and I find that appalling. Tunisia, which is also on the list and the other countries as well. So it's time to say we've got tools—we're going to use them. So if you want to make any comments on that please do.

Mr. COOK. I was going to say, Representative Smith—Chairman Smith, the parts I didn't elaborate too much in my statement but in the written testimony a larger thing, I guess I would say, because I've been working with Japan for 30 years and I don't claim to know the Japanese mind or culture. But what I do know is—or what I've experienced, I should say, is that any ambiguity is used to their greatest advantage.

Any sort of ability to vacillate is used to their greatest advantage, and so I have had some people tell me that diplomacy has worked. Just in the same measure I will say that we have been able to cut great caverns in the Earth via the glacier, so the glacier works. But there are other more effective means of accomplishing what we want to accomplish and the one thing—one thing I know very well about the Japanese, just as we alluded to other, as in India, there have to be consequences—absolute firm consequences.

One of the things I just threw out there, and I have no idea if it's at all—and I wrote in my written testimony I have no idea if it's even doable is dictating, so to speak, to Japan and say part of your implementation as United States and stay on our good side is that—I can't remember, recite it from memory now—but a Hague case to a first decision will not take any more than 10 weeks. In the event it takes more than 10 weeks, the—I'm trying to remember—the left-behind parent will be reimbursed 100 percent of all expenses and costs to that point and going forward until there's an ultimate conclusion.

Second, in the event that there's a favorable—and there's a order of return, then the taking parent has 30 days to return the child. In the event that that 30 days lapses then the 30-day onus goes upon Japan.

In the event that that lapses—and this is the part where it gets maybe way beyond what we can do—that—so after the country, Japan, basically violates what they said they were going to do by signing the Hague then they're giving implicit consent for the U.S. to go in and complete the enforcement by any means, methods, or personnel possible and they have the task—then also the country Japan would hold harmless on behalf of their citizen any sort of legal legislation, violations of laws, norms or whatever that they may throw upon the taking parent—or the left-behind parent—that sort of stuff. And just have it be absolutely this is it. I mean, this is how it rolls out. In the event you don't do this, this is what happens. In the event you don't do this, this is what happens.

And another larger point, because I'd like to divest a lot of the discretion for enforcement from the Department of State and give them a narrower field in which to play and say these are—as the Department of State you're the face of us around the world. It would be great for you to go and explain to the world this is how we run things, this is how we are going to do it rather than saying what do you think about our policies.

Then they're just toothless and they have no point because—and I'll say specifically with Japan you never give them an opportunity to negotiate anything because they will take every opportunity to gain ground and then that is ground acceded and that's the point from which our negotiations start again anew.

There is no—and it sounds strict to say this—they are quite often incapable of negotiating in good will. There always has to be the stick, so to speak. And so that's my point on that.

Ms. BARBIROU. Thank you for the opportunity to respond again. I did just want to note, you mentioned there are people who care in these other governments in these other nations.

It is not that it is full of people who are uncaring and in fact in this room is a member of the Tunisian Embassy who is a very caring and committed individual to the law and the rule of law whom I believe would like to see our case resolved. So to him and to other members of the Tunisian Government who are attempting to act in good faith I appreciate that.

But that does not dispel the fact that the government itself has ultimate authority over the enforcement of the law in all of these countries. And so the recommendations of the Goldman Act or the actions within the Goldman Act are not personal and they are absolutely necessary, as you stated, for the actual enforcement of the return of our children, which is the whole goal and purpose.

And so I stand by that but also thank all of those who do care and who are acting in their best efforts to ensure that there is resolution to our case.

In terms of what Mr. Cook just said, it's interesting. We had similar thoughts. And so in my recommendations, in my written testimony I provided a copy of drafted legislation that I wrote that offers a means of providing punitive damages to parents that are paid for by the countries that are found to have a persistent—to have a pattern of noncompliance in persistently failing to return American children.

There is that second definition of what noncompliance means, and when a country is persistently failing, clearly, even if verbally

they are saying we are going to try and we are doing our best, then by action they are actually outrightly refusing.

And so if our children are illegally abducted in those lands then they are taking on the onus and responsibility of the parent who has illegally kidnapped them there. And when parents are devastated financially in this country, doing anything and everything that they can, wielding legal fees and translation fees and sometimes going into bankruptcy, doing travel exchanges, all of those things at our own cost, it's not fair.

And I think at some point I am hopeful that we see additional legislation that provides an opportunity for a pot to be made that benefits the parents in a way that we are not so financially devastated by this crime.

I also just want to ask that, again, as I stated last year and stated also in my testimony that one of the recommendations I have is that the act contain an explicit requirement of accountability for the total existing cases of IPCA by a country including newly reported cases and the total number of children involved in each case represented in future compliance reports under the act.

I know that that may seem like a minimal thing. This report, as far as I could see, says there is more than 600 children who were abducted abroad. That is not a solid number and in this country where we have no accountability to the total number of children who are impacted by this crime it is vitally important that we have at least a basis of understanding of how many children we're talking about here because when the net widens then the opportunities for others to get involved for prevention and return widens as well.

I have other recommendations I hope that you'll review and I thank you so much.

Ms. ABBE. I kind of missed covering that in my testimony before. I wanted to bring your attention to the Ministry of Women and Child Development's draft that was recently posted on June 22, 2016, and that draft bill is on its Web site and I have linked it to my testimony. And that would implement Hague abduction convention accession to Hague Convention in India.

While I personally welcome this development, I'm really concerned given the MWCD's dual missions and track record which has been kind of mixing up IPCA, which is a child's right issue, with women's issue in India.

For the progress on IPCA in India will really require clear and unwavering commitment from the Government of India including MWCD to ensure all IPCA cases are treated fairly regardless of the abducting parent's gender, nationality, and ethnicity in a timely manner.

That draft is linked to my testimony, but one gap I wanted to bring to your attention is its lack of applicability to pre-Hague cases, and this not only concerns me but also the left-behind parents who have pending cases in India.

So I really urge both nations to ensure that victims of IPCA in India whose cases are pending must be resolved on an urgent basis with the bilateral framework. I know we have talked about it before with Department of State, but that really has to be implemented prior to India's ratification to Hague abduction because we don't want to be in a situation where they would accede to Hague

Convention but we are still high and dry here, you know, hanging between hope and despair and it's mostly despair most of the time.

So I really just wanted to call out. Thank you so much.

Dr. BRANN. And I have one recommendation. I'll be brief. Regarding Brazil, there is a simple way to change the Government of Brazil's approach to this issue. Brazil benefits from the Generalized System of Preferences program that provides nonreciprocal duty-free tariff treatment to certain products imported from certain countries.

Brazil is the third largest beneficiary under the program with its duty-free imports at \$2.3 billion annually. Interestingly, 7 percent of all—that's 7 percent of all imports and that authorization expires next year.

So the idea that we don't have any leverage in the near term is ludicrous. We have this ability and in fact we actually have no obligation to provide this duty-free treatment of Brazilian goods.

If Nico and the other abducted American children aren't brought home then we should just simply revoke Brazil's benefits under this program.

Facing a loss of more than \$2 billion annually, which is a free benefit we just give away, I'd be shocked if the Government of Brazil doesn't find a way to fix its laws so that courts here decide convention cases in 6 weeks or less.

Now, when the Government of Brazil determines a child was wrongly abducted and they don't comply with that within the time-frame, those are issues that are perpetuated at each level of the court above, right.

So it's the first level, then the second level and the third level and the fourth level. One of the other things we could ask the Brazilian courts to do is at each level honor the 6-week commitment, meaning if the first level doesn't make that decision within 6 weeks we can at the very least ask that the next level try to expedite it and honor that 6-week commitment and if they don't then we continue to offer alternative solutions such as the one that I just offered. Thank you.

Mr. SMITH. Just for the record, I would like to ask unanimous consent that Elijah Jackson's letter regarding the abduction of his child to Namibia be made a part of the record and a letter from Congressman Jim McDermott regarding the case of Jeffrey Morehouse whose son was abducted to Japan be also made a part of the record. Without objection, so ordered.

I just want to thank you so much. As I said, we will have a next hearing in September or October. Hopefully the administration will move robustly on the sanctions part, the second shoe that now drops, and we will stay tuned.

But we will have a hearing to talk about that, to see what it is that they are doing. I plan on initiating a letter to the Secretary of State, taking many of your comments today.

I thought the idea of saying enforced to the least extent possible was a very strong sense of we want more. You deserve more and the law gives you far more than that has been deployed 1½ years or so to date.

So this is a great opportunity to make this Goldman Act work and so we'll initiate a letter to the Secretary. I'm sure both sides

of the aisle members will want this signed, saying come on, Mr. Secretary, now is the time—let's do it. And so that'll be something as soon as we get back. Obviously, everybody is out to their planes now because we just ended session for 6 weeks.

But—well, longer than that, but looking forward to that next hearing and we do look forward, I do, and hope that the administration will really be very strong because I think now is the time to draw that line in the sand that says we're not kidding.

Hearing is adjourned.

[Whereupon, at 4:41 p.m., the committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

Christopher H. Smith (R-N.J.), Chairman

July 14, 2016

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations in Room 2255 of the Rayburn House Office Building (and available live on the Committee website at <http://www.ForeignAffairs.house.gov>):

DATE: Thursday, July 14, 2016

TIME: 2:15 p.m.

SUBJECT: Hope Deferred: Securing Enforcement of the Goldman Act to Return Abducted American Children

WITNESSES: Panel I
Ms. Karen Christensen
Deputy Assistant Secretary
Bureau of Consular Affairs
U.S. Department of State

Panel II
Chris Brann, M.D.
(Father of Child Abducted to Brazil)

Ms. Ruchika Abbi
(Mother of Child Abducted to India)

Mr. James Cook
(Father of Children Abducted to Japan)

Ms. Edeanna Barbirou
(Mother of Child Abducted to Tunisia)

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Africa, Global Health, Global Human Rights, and International Organizations HEARING

Day Thursday Date July 14, 2016 Room 2255 Rayburn HOB

Starting Time 2:15 p.m. Ending Time 4:41 p.m.

Recesses 0 (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____) (____ to ____)

Presiding Member(s)

Rep. Chris Smith

Check all of the following that apply:

Open Session ☒

Executive (closed) Session ☐

Televised ☒

Electronically Recorded (taped) ☒

Stenographic Record ☒

TITLE OF HEARING:

Hope Deferred: Securing Enforcement of the Goldman Act to Return Abducted American Children

SUBCOMMITTEE MEMBERS PRESENT:

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

HEARING WITNESSES: Same as meeting notice attached? Yes ☒ No ☐

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Letter from Mr. Elijah Jackson, submitted by Rep. Chris Smith

Letter from Rep. Jim McDermott, submitted by Rep. Chris Smith


Statement from Rep. Dutch Ruppersburger submitted by Rep. Chris Smith

Questions for the record for Ms. Karen Christensen from Rep. Chris Smith

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 4:41 p.m.


Subcommittee Staff Associate

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTER-
NATIONAL ORGANIZATIONS

Date: July 13, 2016

To: Chris Smith (chair) and Karen Bass (ranking) of the Africa, Global Health, Global Human Rights, And
International Organizations Subcommittee.

From: Elijah Jackson, MBA (Left behind Parent), United States Navy Veteran, United States Federal
Employee (Public Servant)

Subject: International parental child abduction rips children from their homes and whisks them away to
a foreign land, alienating them from the love of the American parent left behind- Goldman Act
Enforcement Windhoek, Namibia (AFRICA)

I Elijah Jackson, (Left behind Parent), United States Navy Global War on Terrorism Veteran, and currently
a United States Federal Employee (Public Servant) is asking the Africa, Global Health, Global Human
Rights, And International Organizations Subcommittee to take on my case and enforce the Goldman Act
for non- Hague Country of Namibia. On or about October 22, 2013, my wife Quentalene V. Jackson,
traveled to Namibia with my daughter, Kaylie Jackson, born on June 18, 2010. She led me to believe
that she was traveling for one month to visit her family who lived there due to a recent death in the
family. The cousin who died in the car crash, I personally knew and met when he visited the United
States. I could not go at the time I purchased the roundtrip ticket for my wife and daughter due to work
and at the time there was a Government shutdown most of us federal employees were on furlough and
we did not know when we will be able to go back to work. Also it was unsure at the time if we will get
paid for the time we were furloughed. While in Namibia my wife Venessa contacted me and told me she
will not be returning back to the United States with my daughter and plan to remain in Namibia.
Venessa and did not have any discussion of her staying in Namibia with my daughter, formal agreement
or talks of divorce prior to her leaving for Namibia to visit. To my knowledge my wife and I was ok and I
had no reason to suspect she would abduct my daughter. Especially since she received her permanent
residency (Green card) July 2013 and she had ambitions of eventually working for the US Government
herself. In Addition she was already living in the United States since 2008 and obtained a college degree
here in Maryland. Soon after my wife told me her intentions, I immediately contacted US State
Department. State Department advised me to file a police report, get a custody order and work on
getting a yellow notice out. However since Namibia was a non-Hague country State Department said
there was little they can do to get my daughter home. I would have to maybe consider going through
local Namibian courts. On 15 August 2015, I finally was awarded sole legal and physical custody of the
child by the Circuit Court of Montgomery County, Maryland. On 17 August 2015, a missing person report
was filed and a yellow notice was filed for my daughter Kaylie Jackson.

I never thought my daughter Kaylie would be one of the many kids who was abducted back in October 2013. For the last 2 years and 10 months now I been trying to find and obtain help to get my daughter back home to the United States from Windhoek Namibia (Africa). I never thought that my son and I would be separated from our beautiful little angel. As you can imagine I paid a tremendous amount in Legal fees and other expenses such as hiring special investigators etc., in effort of getting my daughter back to the US. Another factor is my wife father is a senior Namibian diplomat Josef Plaatjies who appears to have strong political influence in the small Namibian Government. Around November 2016 US State Department sent a formal diplomatic note to the Namibian government per my request. I later discovered through parties in Namibia that the Namibian government just sent the diplomatic note to Venessa (my wife) and her father for them to read and respond. Since then no big efforts have been made to effectively get my daughter back home.

In Conclusion, I am a left behind father US Navy Veteran, United States Federal employee (Public Servant) asking the Africa, Global Health, Global Human Rights, And International Organizations Subcommittee and my country to help get Kaylie Jackson who was wrongfully removed from her home and retained in Namibia without consent back to her father, brother grandparents and extended families where she grew up with since birth back to Silver Spring Maryland USA. Thank you all for your consideration and compassion in bringing Kaylie Jackson home.

If you require any further information do not hesitate to contact me

Kind regards,

Elijah Bernard Jackson, MBA

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTER-
NATIONAL ORGANIZATIONS

COMMITTEE ON WAYS AND MEANS
RANKING MEMBER, SUBCOMMITTEE ON HEALTH
COMMITTEE ON THE BUDGET

JIM McDERMOTT
7TH DISTRICT, WASHINGTON

Congress of the United States
House of Representatives
Washington, DC 20515

CO-CHAIR
CONGRESSIONAL TASK FORCE ON
INTERNATIONAL HIV/AIDS

CONGRESSIONAL KIDNEY CAUCUS

CONGRESSIONAL INDONESIA CAUCUS
CONGRESSIONAL MONGOLIA CAUCUS
CONGRESSIONAL CENTRAL AFRICA
CAUCUS

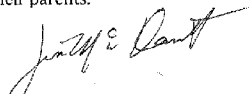
July 14, 2016

"My sincere thanks to Chairman Smith and Ranking Member Bass for holding this hearing; they have been tireless advocates for abducted children and their American parents and I commend their diligence in their search for answers and solutions.

Moreover, I want to commend those parents here today who continue to fight bravely and justly for the safe return of their child. My constituent Jeffery Morehouse is among those parents who wakes up every morning without his son Mochi, who was kidnapped to Japan six years ago. Mr. Morehouse has exhausted every legal option available to him; courts in both the U.S. and Japan have ruled that he is Mochi's rightful parent. Like so many parents of abducted children, Mr. Morehouse has done everything right in trying to secure his son's return. The State Department has assured him, this Committee, and myself that it raises Mochi's kidnapping with the Government of Japan at every opportunity. However, we have yet to receive a satisfactory answer or resolution as to why Mochi has not been returned home to his rightful parent.

I stand with my colleagues in encouraging the State Department to comply with the Goldman Act immediately. The report, which is well overdue, was created to assess the level of cooperation of those countries listed in American abduction and return cases. Unfortunately, despite my long history of support and admiration for Japan, it is clear that the government is out of step with its international obligations when it comes to child abduction.

Mr. Morehouse and Mochi, Mr. Cook, and all the American mothers and fathers who are struggling to secure the return of their son or daughter deserve answers and our support, Mr. Chairman. The Goldman Act can do a world of good in seeking justice for these children and their parents."


Jim McDermott

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTER-
NATIONAL ORGANIZATIONS

C.A. Dutch Ruppersberger

**Statement of Congressman C.A. Dutch Ruppersberger
House Foreign Affairs Committee
Hearing on the Goldman Act and Abducted American Children
July 14, 2016**

My office is currently working on behalf of Second District constituent Stan Hunkovic, who has been fighting a complicated legal battle to bring his children home to the place of their birth and to their family in Maryland since 2010. Stan, who is a United States veteran, a paramedic and a fireman, has had sole legal and primary physical custody of the children since 2011.

At a custody hearing in 2010, a judge in my district expressly forbade Stan's ex-wife from removing their children, Gabe and Ana, from the country. Just hours later, she took them and boarded a plane to Trinidad, where they have remained for six long years.

At the time, our local state's attorney had refused to file criminal charges against Leah Hunkovic. He was concerned about the costs associated with extradition, which would consume almost his entire limited budget, he said. My office learned, however, that the US Marshalls could cover the cost of extradition. We continued working on our state's attorney and, in October 2014, Stan's ex-wife was indicted by a criminal grand jury. We are now waiting for the State Department to issue a diplomatic note requesting the extradition of Leah Hunkovic from Trinidad.

I do believe that the end is near for Stan and that his children will be returned to him, and I will not stop advocating for him until that day. As a father and grandfather myself, I cannot imagine the heartache Stan and all parents of abducted children must endure.

I commend this subcommittee of the House Foreign Affairs Committee for today's hearing on securing enforcement of the Goldman Act to return abducted American children like Gabe and Ana. The Goldman Act, which gives the State Department a variety of tools to pressure foreign governments to send home abducted American children, also requires an annual report on abductions and returns as well as an assessment of the cooperation by destination countries. This report should identify problem countries and provide a roadmap for action. Our laws are only effective when enforced.

International parental child abduction is a bipartisan issue that should motivate all of us into action. Thank you for your work on behalf of this issue and these children and for allowing me to submit this statement into your records.

**Questions for the Record Submitted to
Deputy Assistant Secretary Karen L. Christensen
by Representative Chris Smith
House Committee on Foreign Affairs
Subcommittee on Africa, Global Health, Global Human Rights, and International
Organizations
July 14, 2016**

Question:

The Annual Report on International Parental Child Abduction shows that in 2014, 374 children were returned to the United States, but in 2015, only 299 children were returned. That is a drop of 20%. Could you please explain these numbers?

Answer:

Between 2014 and 2015, the number of abductions reported to the Department of State decreased. In 2015, we processed 771 reported abductions, a decrease from 852 in 2014. We cannot conclude that a one-year change establishes a trend, but we note that this decrease is consistent with the Department's work to prevent international parental child abductions before they happen. In our Annual Report (page 5), we note that in 2015 we enrolled more than 4,000 children in the Children's Passport Issuance Alert Program and that we received more than 1,500 inquiries seeking prevention information.

Question:

Is the State Department pursuing a bilateral agreement with India to address the current 94 children who are separated from their parent in the United States? What steps is the State Department taking?

Answer:

We believe the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Convention) is one of the best tools for preventing and resolving international parental child abductions. We have encouraged India to become party to the Convention on numerous occasions, including during bilateral meetings in April and May, and again during meetings in New Delhi in August. India does appear to be making progress toward joining the Convention. In fact, draft implementing legislation that would allow India to accede to the Convention is now under consideration. In the meantime, we are exploring every other avenue, including a bilateral arrangement, to resolve reported cases.